

**As Introduced**

**136th General Assembly**

**Regular Session**

**2025-2026**

**H. B. No. 120**

**Representatives Brewer, Gross**

**Cosponsors: Representatives Young, McNally, Click, Williams, Brennan,  
Upchurch, Brownlee, Rogers, Sims, Russo**

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**A BILL**

To amend sections 5739.01, 5739.02, 5739.03, and 1  
5739.17 of the Revised Code to exempt from sales 2  
and use tax sales of firearm safety devices. 3

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That sections 5739.01, 5739.02, 5739.03, and 4  
5739.17 of the Revised Code be amended to read as follows: 5

**Sec. 5739.01.** As used in this chapter: 6

(A) "Person" includes individuals, receivers, assignees, 7  
trustees in bankruptcy, estates, firms, partnerships, 8  
associations, joint-stock companies, joint ventures, clubs, 9  
societies, corporations, the state and its political 10  
subdivisions, and combinations of individuals of any form. 11

(B) "Sale" and "selling" include all of the following 12  
transactions for a consideration in any manner, whether 13  
absolutely or conditionally, whether for a price or rental, in 14  
money or by exchange, and by any means whatsoever: 15

(1) All transactions by which title or possession, or 16

both, of tangible personal property, is or is to be transferred, 17  
or a license to use or consume tangible personal property is or 18  
is to be granted; 19

(2) All transactions by which lodging by a hotel is or is 20  
to be furnished to transient guests; 21

(3) All transactions by which: 22

(a) An item of tangible personal property is or is to be 23  
repaired, except property, the purchase of which would not be 24  
subject to the tax imposed by section 5739.02 of the Revised 25  
Code; 26

(b) An item of tangible personal property is or is to be 27  
installed, except property, the purchase of which would not be 28  
subject to the tax imposed by section 5739.02 of the Revised 29  
Code or property that is or is to be incorporated into and will 30  
become a part of a production, transmission, transportation, or 31  
distribution system for the delivery of a public utility 32  
service; 33

(c) The service of washing, cleaning, waxing, polishing, 34  
or painting a motor vehicle is or is to be furnished; 35

(d) Laundry and dry cleaning services are or are to be 36  
provided; 37

(e) Automatic data processing, computer services, or 38  
electronic information services are or are to be provided for 39  
use in business when the true object of the transaction is the 40  
receipt by the consumer of automatic data processing, computer 41  
services, or electronic information services rather than the 42  
receipt of personal or professional services to which automatic 43  
data processing, computer services, or electronic information 44  
services are incidental or supplemental. Notwithstanding any 45

other provision of this chapter, such transactions that occur 46  
between members of an affiliated group are not sales. An 47  
"affiliated group" means two or more persons related in such a 48  
way that one person owns or controls the business operation of 49  
another member of the group. In the case of corporations with 50  
stock, one corporation owns or controls another if it owns more 51  
than fifty per cent of the other corporation's common stock with 52  
voting rights. 53

(f) Telecommunications service, including prepaid calling 54  
service, prepaid wireless calling service, or ancillary service, 55  
is or is to be provided, but not including coin-operated 56  
telephone service; 57

(g) Landscaping and lawn care service is or is to be 58  
provided; 59

(h) Private investigation and security service is or is to 60  
be provided; 61

(i) Information services or tangible personal property is 62  
provided or ordered by means of a nine hundred telephone call; 63

(j) Building maintenance and janitorial service is or is 64  
to be provided; 65

(k) Exterminating service is or is to be provided; 66

(l) Physical fitness facility service is or is to be 67  
provided; 68

(m) Recreation and sports club service is or is to be 69  
provided; 70

(n) Satellite broadcasting service is or is to be 71  
provided; 72

(o) Personal care service is or is to be provided to an 73  
individual. As used in this division, "personal care service" 74  
includes skin care, the application of cosmetics, manicuring, 75  
pedicuring, hair removal, tattooing, body piercing, tanning, 76  
massage, and other similar services. "Personal care service" 77  
does not include a service provided by or on the order of a 78  
licensed physician, certified nurse-midwife, clinical nurse 79  
specialist, certified nurse practitioner, or chiropractor, or 80  
the cutting, coloring, or styling of an individual's hair. 81

(p) The transportation of persons by motor vehicle or 82  
aircraft is or is to be provided, when the transportation is 83  
entirely within this state, except for transportation provided 84  
by an ambulance service, by a transit bus, as defined in section 85  
5735.01 of the Revised Code, and transportation provided by a 86  
citizen of the United States holding a certificate of public 87  
convenience and necessity issued under 49 U.S.C. 41102; 88

(q) Motor vehicle towing service is or is to be provided. 89  
As used in this division, "motor vehicle towing service" means 90  
the towing or conveyance of a wrecked, disabled, or illegally 91  
parked motor vehicle. 92

(r) Snow removal service is or is to be provided. As used 93  
in this division, "snow removal service" means the removal of 94  
snow by any mechanized means, but does not include the providing 95  
of such service by a person that has less than five thousand 96  
dollars in sales of such service during the calendar year. 97

(s) Electronic publishing service is or is to be provided 98  
to a consumer for use in business, except that such transactions 99  
occurring between members of an affiliated group, as defined in 100  
division (B) (3) (e) of this section, are not sales. 101

(4) All transactions by which printed, imprinted, 102  
overprinted, lithographic, multilithic, blueprinted, 103  
photostatic, or other productions or reproductions of written or 104  
graphic matter are or are to be furnished or transferred; 105

(5) The production or fabrication of tangible personal 106  
property for a consideration for consumers who furnish either 107  
directly or indirectly the materials used in the production of 108  
fabrication work; and include the furnishing, preparing, or 109  
serving for a consideration of any tangible personal property 110  
consumed on the premises of the person furnishing, preparing, or 111  
serving such tangible personal property. Except as provided in 112  
section 5739.03 of the Revised Code, a construction contract 113  
pursuant to which tangible personal property is or is to be 114  
incorporated into a structure or improvement on and becoming a 115  
part of real property is not a sale of such tangible personal 116  
property. The construction contractor is the consumer of such 117  
tangible personal property, provided that the sale and 118  
installation of carpeting, the sale and installation of 119  
agricultural land tile, the sale and erection or installation of 120  
portable grain bins, or the provision of landscaping and lawn 121  
care service and the transfer of property as part of such 122  
service is never a construction contract. 123

As used in division (B) (5) of this section: 124

(a) "Agricultural land tile" means fired clay or concrete 125  
tile, or flexible or rigid perforated plastic pipe or tubing, 126  
incorporated or to be incorporated into a subsurface drainage 127  
system appurtenant to land used or to be used primarily in 128  
production by farming, agriculture, horticulture, or 129  
floriculture. The term does not include such materials when they 130  
are or are to be incorporated into a drainage system appurtenant 131

to a building or structure even if the building or structure is 132  
used or to be used in such production. 133

(b) "Portable grain bin" means a structure that is used or 134  
to be used by a person engaged in farming or agriculture to 135  
shelter the person's grain and that is designed to be 136  
disassembled without significant damage to its component parts. 137

(6) All transactions in which all of the shares of stock 138  
of a closely held corporation are transferred, or an ownership 139  
interest in a pass-through entity, as defined in section 5733.04 140  
of the Revised Code, is transferred, if the corporation or pass- 141  
through entity is not engaging in business and its entire assets 142  
consist of boats, planes, motor vehicles, or other tangible 143  
personal property operated primarily for the use and enjoyment 144  
of the shareholders or owners; 145

(7) All transactions in which a warranty, maintenance or 146  
service contract, or similar agreement by which the vendor of 147  
the warranty, contract, or agreement agrees to repair or 148  
maintain the tangible personal property of the consumer is or is 149  
to be provided; 150

(8) The transfer of copyrighted motion picture films used 151  
solely for advertising purposes, except that the transfer of 152  
such films for exhibition purposes is not a sale; 153

(9) All transactions by which tangible personal property 154  
is or is to be stored, except such property that the consumer of 155  
the storage holds for sale in the regular course of business; 156

(10) All transactions in which "guaranteed auto 157  
protection" is provided whereby a person promises to pay to the 158  
consumer the difference between the amount the consumer receives 159  
from motor vehicle insurance and the amount the consumer owes to 160

a person holding title to or a lien on the consumer's motor 161  
vehicle in the event the consumer's motor vehicle suffers a 162  
total loss under the terms of the motor vehicle insurance policy 163  
or is stolen and not recovered, if the protection and its price 164  
are included in the purchase or lease agreement; 165

(11) (a) Except as provided in division (B) (11) (b) of this 166  
section, all transactions by which health care services are paid 167  
for, reimbursed, provided, delivered, arranged for, or otherwise 168  
made available by a medicaid health insuring corporation 169  
pursuant to the corporation's contract with the state. 170

(b) If the centers for medicare and medicaid services of 171  
the United States department of health and human services 172  
determines that the taxation of transactions described in 173  
division (B) (11) (a) of this section constitutes an impermissible 174  
health care-related tax under the "Social Security Act," section 175  
1903(w), 42 U.S.C. 1396b(w), and regulations adopted thereunder, 176  
the medicaid director shall notify the tax commissioner of that 177  
determination. Beginning with the first day of the month 178  
following that notification, the transactions described in 179  
division (B) (11) (a) of this section are not sales for the 180  
purposes of this chapter or Chapter 5741. of the Revised Code. 181  
The tax commissioner shall order that the collection of taxes 182  
under sections 5739.02, 5739.021, 5739.023, 5739.026, 5741.02, 183  
5741.021, 5741.022, and 5741.023 of the Revised Code shall cease 184  
for transactions occurring on or after that date. 185

(12) All transactions by which a specified digital product 186  
is provided for permanent use or less than permanent use, 187  
regardless of whether continued payment is required. 188

(13) All transactions by a delivery network company for 189  
the company's delivery network services, provided the company 190

has a waiver issued under section 5741.072 of the Revised Code. 191

Except as provided in this section, "sale" and "selling" 192  
do not include transfers of interest in leased property where 193  
the original lessee and the terms of the original lease 194  
agreement remain unchanged, or professional, insurance, or 195  
personal service transactions that involve the transfer of 196  
tangible personal property as an inconsequential element, for 197  
which no separate charges are made. 198

(C) "Vendor" means the person providing the service or by 199  
whom the transfer effected or license given by a sale is or is 200  
to be made or given and, for sales described in division (B)(3) 201  
(i) of this section, the telecommunications service vendor that 202  
provides the nine hundred telephone service; if two or more 203  
persons are engaged in business at the same place of business 204  
under a single trade name in which all collections on account of 205  
sales by each are made, such persons shall constitute a single 206  
vendor. 207

Physicians, certified nurse-midwives, clinical nurse 208  
specialists, certified nurse practitioners, dentists, hospitals, 209  
and veterinarians who are engaged in selling tangible personal 210  
property as received from others, such as eyeglasses, 211  
mouthwashes, dentifrices, or similar articles, are vendors. 212  
Veterinarians who are engaged in transferring to others for a 213  
consideration drugs, the dispensing of which does not require an 214  
order of a licensed veterinarian, physician, certified nurse- 215  
midwife, clinical nurse specialist, or certified nurse 216  
practitioner under federal law, are vendors. 217

The operator of any peer-to-peer car sharing program shall 218  
be considered to be the vendor. 219



(D) (1) "Consumer" means the person for whom the service is 220  
provided, to whom the transfer effected or license given by a 221  
sale is or is to be made or given, to whom the service described 222  
in division (B) (3) (f) or (i) of this section is charged, or to 223  
whom the admission is granted. 224

(2) Physicians, certified nurse-midwives, clinical nurse 225  
specialists, certified nurse practitioners, dentists, hospitals, 226  
and blood banks operated by nonprofit institutions and persons 227  
licensed to practice veterinary medicine, surgery, and dentistry 228  
are consumers of all tangible personal property and services 229  
purchased by them in connection with the practice of medicine, 230  
dentistry, the rendition of hospital or blood bank service, or 231  
the practice of veterinary medicine, surgery, and dentistry. In 232  
addition to being consumers of drugs administered by them or by 233  
their assistants according to their direction, veterinarians 234  
also are consumers of drugs that under federal law may be 235  
dispensed only by or upon the order of a licensed veterinarian, 236  
physician, certified nurse-midwife, clinical nurse specialist, 237  
or certified nurse practitioner, when transferred by them to 238  
others for a consideration to provide treatment to animals as 239  
directed by the veterinarian. 240

(3) A person who performs a facility management, or 241  
similar service contract for a contractee is a consumer of all 242  
tangible personal property and services purchased for use in 243  
connection with the performance of such contract, regardless of 244  
whether title to any such property vests in the contractee. The 245  
purchase of such property and services is not subject to the 246  
exception for resale under division (E) of this section. 247

(4) (a) In the case of a person who purchases printed 248  
matter for the purpose of distributing it or having it 249

distributed to the public or to a designated segment of the public, free of charge, that person is the consumer of that printed matter, and the purchase of that printed matter for that purpose is a sale.

(b) In the case of a person who produces, rather than purchases, printed matter for the purpose of distributing it or having it distributed to the public or to a designated segment of the public, free of charge, that person is the consumer of all tangible personal property and services purchased for use or consumption in the production of that printed matter. That person is not entitled to claim exemption under division (B) (42) (f) of section 5739.02 of the Revised Code for any material incorporated into the printed matter or any equipment, supplies, or services primarily used to produce the printed matter.

(c) The distribution of printed matter to the public or to a designated segment of the public, free of charge, is not a sale to the members of the public to whom the printed matter is distributed or to any persons who purchase space in the printed matter for advertising or other purposes.

(5) A person who makes sales of any of the services listed in division (B) (3) of this section is the consumer of any tangible personal property used in performing the service. The purchase of that property is not subject to the resale exception under division (E) of this section.

(6) A person who engages in highway transportation for hire is the consumer of all packaging materials purchased by that person and used in performing the service, except for packaging materials sold by such person in a transaction separate from the service.

(7) In the case of a transaction for health care services 279  
under division (B) (11) of this section, a medicaid health 280  
insuring corporation is the consumer of such services. The 281  
purchase of such services by a medicaid health insuring 282  
corporation is not subject to the exception for resale under 283  
division (E) of this section or to the exemptions provided under 284  
divisions (B) (12), (18), (19), and (22) of section 5739.02 of 285  
the Revised Code. 286

(E) "Retail sale" and "sales at retail" include all sales, 287  
except those in which the purpose of the consumer is to resell 288  
the thing transferred or benefit of the service provided, by a 289  
person engaging in business, in the form in which the same is, 290  
or is to be, received by the person. 291

(F) "Business" includes any activity engaged in by any 292  
person with the object of gain, benefit, or advantage, either 293  
direct or indirect. "Business" does not include the activity of 294  
a person in managing and investing the person's own funds. 295

(G) "Engaging in business" means commencing, conducting, 296  
or continuing in business, and liquidating a business when the 297  
liquidator thereof holds itself out to the public as conducting 298  
such business. Making a casual sale is not engaging in business. 299

(H) (1) (a) "Price," except as provided in divisions (H) (2), 300  
(3), and (4) of this section, means the total amount of 301  
consideration, including cash, credit, property, and services, 302  
for which tangible personal property or services are sold, 303  
leased, or rented, valued in money, whether received in money or 304  
otherwise, without any deduction for any of the following: 305

(i) The vendor's cost of the property sold; 306

(ii) The cost of materials used, labor or service costs, 307

interest, losses, all costs of transportation to the vendor, all	308
taxes imposed on the vendor, including the tax imposed under	309
Chapter 5751. of the Revised Code, and any other expense of the	310
vendor;	311
(iii) Charges by the vendor for any services necessary to	312
complete the sale;	313
(iv) Delivery charges. As used in this division, "delivery	314
charges" means charges by the vendor for preparation and	315
delivery to a location designated by the consumer of tangible	316
personal property or a service, including transportation,	317
shipping, postage, handling, crating, and packing.	318
(v) Installation charges;	319
(vi) Credit for any trade-in.	320
(b) "Price" includes consideration received by the vendor	321
from a third party, if the vendor actually receives the	322
consideration from a party other than the consumer, and the	323
consideration is directly related to a price reduction or	324
discount on the sale; the vendor has an obligation to pass the	325
price reduction or discount through to the consumer; the amount	326
of the consideration attributable to the sale is fixed and	327
determinable by the vendor at the time of the sale of the item	328
to the consumer; and one of the following criteria is met:	329
(i) The consumer presents a coupon, certificate, or other	330
document to the vendor to claim a price reduction or discount	331
where the coupon, certificate, or document is authorized,	332
distributed, or granted by a third party with the understanding	333
that the third party will reimburse any vendor to whom the	334
coupon, certificate, or document is presented;	335
(ii) The consumer identifies the consumer's self to the	336

seller as a member of a group or organization entitled to a 337  
price reduction or discount. A preferred customer card that is 338  
available to any patron does not constitute membership in such a 339  
group or organization. 340

(iii) The price reduction or discount is identified as a 341  
third party price reduction or discount on the invoice received 342  
by the consumer, or on a coupon, certificate, or other document 343  
presented by the consumer. 344

(c) "Price" does not include any of the following: 345

(i) Discounts, including cash, term, or coupons that are 346  
not reimbursed by a third party that are allowed by a vendor and 347  
taken by a consumer on a sale; 348

(ii) Interest, financing, and carrying charges from credit 349  
extended on the sale of tangible personal property or services, 350  
if the amount is separately stated on the invoice, bill of sale, 351  
or similar document given to the purchaser; 352

(iii) Any taxes legally imposed directly on the consumer 353  
that are separately stated on the invoice, bill of sale, or 354  
similar document given to the consumer. For the purpose of this 355  
division, the tax imposed under Chapter 5751. of the Revised 356  
Code is not a tax directly on the consumer, even if the tax or a 357  
portion thereof is separately stated. 358

(iv) Notwithstanding divisions (H) (1) (b) (i) to (iii) of 359  
this section, any discount allowed by an automobile manufacturer 360  
to its employee, or to the employee of a supplier, on the 361  
purchase of a new motor vehicle from a new motor vehicle dealer 362  
in this state. 363

(v) The dollar value of a gift card that is not sold by a 364  
vendor or purchased by a consumer and that is redeemed by the 365

consumer in purchasing tangible personal property or services if 366  
the vendor is not reimbursed and does not receive compensation 367  
from a third party to cover all or part of the gift card value. 368  
For the purposes of this division, a gift card is not sold by a 369  
vendor or purchased by a consumer if it is distributed pursuant 370  
to an awards, loyalty, or promotional program. Past and present 371  
purchases of tangible personal property or services by the 372  
consumer shall not be treated as consideration exchanged for a 373  
gift card. 374

(2) In the case of a sale of any new motor vehicle by a 375  
new motor vehicle dealer, as defined in section 4517.01 of the 376  
Revised Code, in which another motor vehicle is accepted by the 377  
dealer as part of the consideration received, "price" has the 378  
same meaning as in division (H) (1) of this section, reduced by 379  
the credit afforded the consumer by the dealer for the motor 380  
vehicle received in trade. 381

(3) In the case of a sale of any watercraft or outboard 382  
motor by a watercraft dealer licensed in accordance with section 383  
1547.543 of the Revised Code, in which another watercraft, 384  
watercraft and trailer, or outboard motor is accepted by the 385  
dealer as part of the consideration received, "price" has the 386  
same meaning as in division (H) (1) of this section, reduced by 387  
the credit afforded the consumer by the dealer for the 388  
watercraft, watercraft and trailer, or outboard motor received 389  
in trade. As used in this division, "watercraft" includes an 390  
outdrive unit attached to the watercraft. 391

(4) In the case of transactions for health care services 392  
under division (B) (11) of this section, "price" means the amount 393  
of managed care premiums received each month by a medicaid 394  
health insuring corporation. 395

(I) "Receipts" means the total amount of the prices of the sales of vendors, provided that the dollar value of gift cards distributed pursuant to an awards, loyalty, or promotional program, and cash discounts allowed and taken on sales at the time they are consummated are not included, minus any amount deducted as a bad debt pursuant to section 5739.121 of the Revised Code. "Receipts" does not include the sale price of property returned or services rejected by consumers when the full sale price and tax are refunded either in cash or by credit.

(J) "Place of business" means any location at which a person engages in business.

(K) "Premises" includes any real property or portion thereof upon which any person engages in selling tangible personal property at retail or making retail sales and also includes any real property or portion thereof designated for, or devoted to, use in conjunction with the business engaged in by such person.

(L) "Casual sale" means a sale of an item of tangible personal property that was obtained by the person making the sale, through purchase or otherwise, for the person's own use and was previously subject to any state's taxing jurisdiction on its sale or use, and includes such items acquired for the seller's use that are sold by an auctioneer employed directly by the person for such purpose, provided the location of such sales is not the auctioneer's permanent place of business. As used in this division, "permanent place of business" includes any location where such auctioneer has conducted more than two auctions during the year.

(M) "Hotel" means every establishment kept, used,

maintained, advertised, or held out to the public to be a place 426  
where sleeping accommodations are offered to guests, in which 427  
five or more rooms are used for the accommodation of such 428  
guests, whether the rooms are in one or several structures, 429  
except as otherwise provided in section 5739.091 of the Revised 430  
Code. 431

(N) "Transient guests" means persons occupying a room or 432  
rooms for sleeping accommodations for less than thirty 433  
consecutive days. 434

(O) "Making retail sales" means the effecting of 435  
transactions wherein one party is obligated to pay the price and 436  
the other party is obligated to provide a service or to transfer 437  
title to or possession of the item sold. "Making retail sales" 438  
does not include the preliminary acts of promoting or soliciting 439  
the retail sales, other than the distribution of printed matter 440  
which displays or describes and prices the item offered for 441  
sale, nor does it include delivery of a predetermined quantity 442  
of tangible personal property or transportation of property or 443  
personnel to or from a place where a service is performed. 444

(P) "Used directly in the rendition of a public utility 445  
service" means that property that is to be incorporated into and 446  
will become a part of the consumer's production, transmission, 447  
transportation, or distribution system and that retains its 448  
classification as tangible personal property after such 449  
incorporation; fuel or power used in the production, 450  
transmission, transportation, or distribution system; and 451  
tangible personal property used in the repair and maintenance of 452  
the production, transmission, transportation, or distribution 453  
system, including only such motor vehicles as are specially 454  
designed and equipped for such use. Tangible personal property 455



and services used primarily in providing highway transportation 456  
for hire are not used directly in the rendition of a public 457  
utility service. In this definition, "public utility" includes a 458  
citizen of the United States holding, and required to hold, a 459  
certificate of public convenience and necessity issued under 49 460  
U.S.C. 41102. 461

(Q) "Refining" means removing or separating a desirable 462  
product from raw or contaminated materials by distillation or 463  
physical, mechanical, or chemical processes. 464

(R) "Assembly" and "assembling" mean attaching or fitting 465  
together parts to form a product, but do not include packaging a 466  
product. 467

(S) "Manufacturing operation" means a process in which 468  
materials are changed, converted, or transformed into a 469  
different state or form from which they previously existed and 470  
includes refining materials, assembling parts, and preparing raw 471  
materials and parts by mixing, measuring, blending, or otherwise 472  
committing such materials or parts to the manufacturing process. 473  
"Manufacturing operation" does not include packaging. 474

(T) "Fiscal officer" means, with respect to a regional 475  
transit authority, the secretary-treasurer thereof, and with 476  
respect to a county that is a transit authority, the fiscal 477  
officer of the county transit board if one is appointed pursuant 478  
to section 306.03 of the Revised Code or the county auditor if 479  
the board of county commissioners operates the county transit 480  
system. 481

(U) "Transit authority" means a regional transit authority 482  
created pursuant to section 306.31 of the Revised Code or a 483  
county in which a county transit system is created pursuant to 484

section 306.01 of the Revised Code. For the purposes of this 485  
chapter, a transit authority must extend to at least the entire 486  
area of a single county. A transit authority that includes 487  
territory in more than one county must include all the area of 488  
the most populous county that is a part of such transit 489  
authority. County population shall be measured by the most 490  
recent census taken by the United States census bureau. 491

(V) "Legislative authority" means, with respect to a 492  
regional transit authority, the board of trustees thereof, and 493  
with respect to a county that is a transit authority, the board 494  
of county commissioners. 495

(W) "Territory of the transit authority" means all of the 496  
area included within the territorial boundaries of a transit 497  
authority as they from time to time exist. Such territorial 498  
boundaries must at all times include all the area of a single 499  
county or all the area of the most populous county that is a 500  
part of such transit authority. County population shall be 501  
measured by the most recent census taken by the United States 502  
census bureau. 503

(X) "Providing a service" means providing or furnishing 504  
anything described in division (B) (3) of this section for 505  
consideration. 506

(Y) (1) (a) "Automatic data processing" means processing of 507  
others' data, including keypunching or similar data entry 508  
services together with verification thereof, or providing access 509  
to computer equipment for the purpose of processing data. 510

(b) "Computer services" means providing services 511  
consisting of specifying computer hardware configurations and 512  
evaluating technical processing characteristics, computer 513

programming, and training of computer programmers and operators, 514  
provided in conjunction with and to support the sale, lease, or 515  
operation of taxable computer equipment or systems. 516

(c) "Electronic information services" means providing 517  
access to computer equipment by means of telecommunications 518  
equipment for the purpose of either of the following: 519

(i) Examining or acquiring data stored in or accessible to 520  
the computer equipment; 521

(ii) Placing data into the computer equipment to be 522  
retrieved by designated recipients with access to the computer 523  
equipment. 524

"Electronic information services" does not include 525  
electronic publishing. 526

(d) "Automatic data processing, computer services, or 527  
electronic information services" shall not include personal or 528  
professional services. 529

(2) As used in divisions (B) (3) (e) and (Y) (1) of this 530  
section, "personal and professional services" means all services 531  
other than automatic data processing, computer services, or 532  
electronic information services, including but not limited to: 533

(a) Accounting and legal services such as advice on tax 534  
matters, asset management, budgetary matters, quality control, 535  
information security, and auditing and any other situation where 536  
the service provider receives data or information and studies, 537  
alters, analyzes, interprets, or adjusts such material; 538

(b) Analyzing business policies and procedures; 539

(c) Identifying management information needs; 540

(d) Feasibility studies, including economic and technical analysis of existing or potential computer hardware or software needs and alternatives;	541 542 543
(e) Designing policies, procedures, and custom software for collecting business information, and determining how data should be summarized, sequenced, formatted, processed, controlled, and reported so that it will be meaningful to management;	544 545 546 547 548
(f) Developing policies and procedures that document how business events and transactions are to be authorized, executed, and controlled;	549 550 551
(g) Testing of business procedures;	552
(h) Training personnel in business procedure applications;	553
(i) Providing credit information to users of such information by a consumer reporting agency, as defined in the "Fair Credit Reporting Act," 84 Stat. 1114, 1129 (1970), 15 U.S.C. 1681a(f), or as hereafter amended, including but not limited to gathering, organizing, analyzing, recording, and furnishing such information by any oral, written, graphic, or electronic medium;	554 555 556 557 558 559 560
(j) Providing debt collection services by any oral, written, graphic, or electronic means;	561 562
(k) Providing digital advertising services;	563
(l) Providing services to electronically file any federal, state, or local individual income tax return, report, or other related document or schedule with a federal, state, or local government entity or to electronically remit a payment of any such individual income tax to such an entity. For the purpose of	564 565 566 567 568

this division, "individual income tax" does not include federal, 569  
state, or local taxes withheld by an employer from an employee's 570  
compensation. 571

The services listed in divisions (Y) (2) (a) to (1) of this 572  
section are not automatic data processing or computer services. 573

(Z) "Highway transportation for hire" means the 574  
transportation of personal property belonging to others for 575  
consideration by any of the following: 576

(1) The holder of a permit or certificate issued by this 577  
state or the United States authorizing the holder to engage in 578  
transportation of personal property belonging to others for 579  
consideration over or on highways, roadways, streets, or any 580  
similar public thoroughfare; 581

(2) A person who engages in the transportation of personal 582  
property belonging to others for consideration over or on 583  
highways, roadways, streets, or any similar public thoroughfare 584  
but who could not have engaged in such transportation on 585  
December 11, 1985, unless the person was the holder of a permit 586  
or certificate of the types described in division (Z) (1) of this 587  
section; 588

(3) A person who leases a motor vehicle to and operates it 589  
for a person described by division (Z) (1) or (2) of this 590  
section. 591

"Highway transportation for hire" does not include 592  
delivery network services. 593

(AA) (1) "Telecommunications service" means the electronic 594  
transmission, conveyance, or routing of voice, data, audio, 595  
video, or any other information or signals to a point, or 596  
between or among points. "Telecommunications service" includes 597

such transmission, conveyance, or routing in which computer 598  
processing applications are used to act on the form, code, or 599  
protocol of the content for purposes of transmission, 600  
conveyance, or routing without regard to whether the service is 601  
referred to as voice-over internet protocol service or is 602  
classified by the federal communications commission as enhanced 603  
or value-added. "Telecommunications service" does not include 604  
any of the following: 605

(a) Data processing and information services that allow 606  
data to be generated, acquired, stored, processed, or retrieved 607  
and delivered by an electronic transmission to a consumer where 608  
the consumer's primary purpose for the underlying transaction is 609  
the processed data or information; 610

(b) Installation or maintenance of wiring or equipment on 611  
a customer's premises; 612

(c) Tangible personal property; 613

(d) Advertising, including directory advertising; 614

(e) Billing and collection services provided to third 615  
parties; 616

(f) Internet access service; 617

(g) Radio and television audio and video programming 618  
services, regardless of the medium, including the furnishing of 619  
transmission, conveyance, and routing of such services by the 620  
programming service provider. Radio and television audio and 621  
video programming services include, but are not limited to, 622  
cable service, as defined in 47 U.S.C. 522(6), and audio and 623  
video programming services delivered by commercial mobile radio 624  
service providers, as defined in 47 C.F.R. 20.3; 625

(h) Ancillary service;	626
(i) Digital products delivered electronically, including software, music, video, reading materials, or ring tones.	627 628
(2) "Ancillary service" means a service that is associated with or incidental to the provision of telecommunications service, including conference bridging service, detailed telecommunications billing service, directory assistance, vertical service, and voice mail service. As used in this division:	629 630 631 632 633 634
(a) "Conference bridging service" means an ancillary service that links two or more participants of an audio or video conference call, including providing a telephone number. "Conference bridging service" does not include telecommunications services used to reach the conference bridge.	635 636 637 638 639
(b) "Detailed telecommunications billing service" means an ancillary service of separately stating information pertaining to individual calls on a customer's billing statement.	640 641 642
(c) "Directory assistance" means an ancillary service of providing telephone number or address information.	643 644
(d) "Vertical service" means an ancillary service that is offered in connection with one or more telecommunications services, which offers advanced calling features that allow customers to identify callers and manage multiple calls and call connections, including conference bridging service.	645 646 647 648 649
(e) "Voice mail service" means an ancillary service that enables the customer to store, send, or receive recorded messages. "Voice mail service" does not include any vertical services that the customer may be required to have in order to utilize the voice mail service.	650 651 652 653 654

(3) "900 service" means an inbound toll telecommunications service purchased by a subscriber that allows the subscriber's customers to call in to the subscriber's prerecorded announcement or live service, and which is typically marketed under the name "900 service" and any subsequent numbers designated by the federal communications commission. "900 service" does not include the charge for collection services provided by the seller of the telecommunications service to the subscriber, or services or products sold by the subscriber to the subscriber's customer.

(4) "Prepaid calling service" means the right to access exclusively telecommunications services, which must be paid for in advance and which enables the origination of calls using an access number or authorization code, whether manually or electronically dialed, and that is sold in predetermined units or dollars of which the number declines with use in a known amount.

(5) "Prepaid wireless calling service" means a telecommunications service that provides the right to utilize mobile telecommunications service as well as other non-telecommunications services, including the download of digital products delivered electronically, and content and ancillary services, that must be paid for in advance and that is sold in predetermined units or dollars of which the number declines with use in a known amount.

(6) "Value-added non-voice data service" means a telecommunications service in which computer processing applications are used to act on the form, content, code, or protocol of the information or data primarily for a purpose other than transmission, conveyance, or routing.



(7) "Coin-operated telephone service" means a 685  
telecommunications service paid for by inserting money into a 686  
telephone accepting direct deposits of money to operate. 687

(8) "Customer" has the same meaning as in section 5739.034 688  
of the Revised Code. 689

(BB) "Laundry and dry cleaning services" means removing 690  
soil or dirt from towels, linens, articles of clothing, or other 691  
fabric items that belong to others and supplying towels, linens, 692  
articles of clothing, or other fabric items. "Laundry and dry 693  
cleaning services" does not include the provision of self- 694  
service facilities for use by consumers to remove soil or dirt 695  
from towels, linens, articles of clothing, or other fabric 696  
items. 697

(CC) "Magazines distributed as controlled circulation 698  
publications" means magazines containing at least twenty-four 699  
pages, at least twenty-five per cent editorial content, issued 700  
at regular intervals four or more times a year, and circulated 701  
without charge to the recipient, provided that such magazines 702  
are not owned or controlled by individuals or business concerns 703  
which conduct such publications as an auxiliary to, and 704  
essentially for the advancement of the main business or calling 705  
of, those who own or control them. 706

(DD) "Landscaping and lawn care service" means the 707  
services of planting, seeding, sodding, removing, cutting, 708  
trimming, pruning, mulching, aerating, applying chemicals, 709  
watering, fertilizing, and providing similar services to 710  
establish, promote, or control the growth of trees, shrubs, 711  
flowers, grass, ground cover, and other flora, or otherwise 712  
maintaining a lawn or landscape grown or maintained by the owner 713  
for ornamentation or other nonagricultural purpose. However, 714

"landscaping and lawn care service" does not include the 715  
providing of such services by a person who has less than five 716  
thousand dollars in sales of such services during the calendar 717  
year. 718

(EE) "Private investigation and security service" means 719  
the performance of any activity for which the provider of such 720  
service is required to be licensed pursuant to Chapter 4749. of 721  
the Revised Code, or would be required to be so licensed in 722  
performing such services in this state, and also includes the 723  
services of conducting polygraph examinations and of monitoring 724  
or overseeing the activities on or in, or the condition of, the 725  
consumer's home, business, or other facility by means of 726  
electronic or similar monitoring devices. "Private investigation 727  
and security service" does not include special duty services 728  
provided by off-duty police officers, deputy sheriffs, and other 729  
peace officers regularly employed by the state or a political 730  
subdivision. 731

(FF) "Information services" means providing conversation, 732  
giving consultation or advice, playing or making a voice or 733  
other recording, making or keeping a record of the number of 734  
callers, and any other service provided to a consumer by means 735  
of a nine hundred telephone call, except when the nine hundred 736  
telephone call is the means by which the consumer makes a 737  
contribution to a recognized charity. 738

(GG) "Research and development" means designing, creating, 739  
or formulating new or enhanced products, equipment, or 740  
manufacturing processes, and also means conducting scientific or 741  
technological inquiry and experimentation in the physical 742  
sciences with the goal of increasing scientific knowledge which 743  
may reveal the bases for new or enhanced products, equipment, or 744

manufacturing processes. 745

(HH) "Qualified research and development equipment" means 746  
either of the following: 747

(1) Capitalized tangible personal property, and leased 748  
personal property that would be capitalized if purchased, used 749  
by a person primarily to perform research and development; 750

(2) Any tangible personal property used by a megaproject 751  
operator primarily to perform research and development at the 752  
site of a megaproject that satisfies the criteria described in 753  
division (A) (11) (a) (ii) of section 122.17 of the Revised Code 754  
during the period that the megaproject operator has an agreement 755  
for such megaproject with the tax credit authority under 756  
division (D) of that section that remains in effect and has not 757  
expired or been terminated. 758

"Qualified research and development equipment" does not 759  
include tangible personal property primarily used in testing, as 760  
defined in division (A) (4) of section 5739.011 of the Revised 761  
Code, or used for recording or storing test results, unless such 762  
property is primarily used by the consumer in testing the 763  
product, equipment, or manufacturing process being created, 764  
designed, or formulated by the consumer in the research and 765  
development activity or in recording or storing such test 766  
results. 767

(II) "Building maintenance and janitorial service" means 768  
cleaning the interior or exterior of a building and any tangible 769  
personal property located therein or thereon, including any 770  
services incidental to such cleaning for which no separate 771  
charge is made. However, "building maintenance and janitorial 772  
service" does not include the providing of such service by a 773

person who has less than five thousand dollars in sales of such 774  
service during the calendar year. As used in this division, 775  
"cleaning" does not include sanitation services necessary for an 776  
establishment described in 21 U.S.C. 608 to comply with rules 777  
and regulations adopted pursuant to that section. 778

(JJ) "Exterminating service" means eradicating or 779  
attempting to eradicate vermin infestations from a building or 780  
structure, or the area surrounding a building or structure, and 781  
includes activities to inspect, detect, or prevent vermin 782  
infestation of a building or structure. 783

(KK) "Physical fitness facility service" means all 784  
transactions by which a membership is granted, maintained, or 785  
renewed, including initiation fees, membership dues, renewal 786  
fees, monthly minimum fees, and other similar fees and dues, by 787  
a physical fitness facility such as an athletic club, health 788  
spa, or gymnasium, which entitles the member to use the facility 789  
for physical exercise. 790

(LL) "Recreation and sports club service" means all 791  
transactions by which a membership is granted, maintained, or 792  
renewed, including initiation fees, membership dues, renewal 793  
fees, monthly minimum fees, and other similar fees and dues, by 794  
a recreation and sports club, which entitles the member to use 795  
the facilities of the organization. "Recreation and sports club" 796  
means an organization that has ownership of, or controls or 797  
leases on a continuing, long-term basis, the facilities used by 798  
its members and includes an aviation club, gun or shooting club, 799  
yacht club, card club, swimming club, tennis club, golf club, 800  
country club, riding club, amateur sports club, or similar 801  
organization. 802

(MM) "Livestock" means farm animals commonly raised for 803

food, food production, or other agricultural purposes, 804  
including, but not limited to, cattle, sheep, goats, swine, 805  
poultry, and captive deer. "Livestock" does not include 806  
invertebrates, amphibians, reptiles, domestic pets, animals for 807  
use in laboratories or for exhibition, or other animals not 808  
commonly raised for food or food production. 809

(NN) "Livestock structure" means a building or structure 810  
used exclusively for the housing, raising, feeding, or 811  
sheltering of livestock, and includes feed storage or handling 812  
structures and structures for livestock waste handling. 813

(OO) "Horticulture" means the growing, cultivation, and 814  
production of flowers, fruits, herbs, vegetables, sod, 815  
mushrooms, and nursery stock. As used in this division, "nursery 816  
stock" has the same meaning as in section 927.51 of the Revised 817  
Code. 818

(PP) "Horticulture structure" means a building or 819  
structure used exclusively for the commercial growing, raising, 820  
or overwintering of horticultural products, and includes the 821  
area used for stocking, storing, and packing horticultural 822  
products when done in conjunction with the production of those 823  
products. 824

(QQ) "Newspaper" means an unbound publication bearing a 825  
title or name that is regularly published, at least as 826  
frequently as biweekly, and distributed from a fixed place of 827  
business to the public in a specific geographic area, and that 828  
contains a substantial amount of news matter of international, 829  
national, or local events of interest to the general public. 830

(RR) (1) "Feminine hygiene products" means tampons, panty 831  
liners, menstrual cups, sanitary napkins, and other similar 832

tangible personal property designed for feminine hygiene in 833  
connection with the human menstrual cycle, but does not include 834  
grooming and hygiene products. 835

(2) "Grooming and hygiene products" means soaps and 836  
cleaning solutions, shampoo, toothpaste, mouthwash, 837  
antiperspirants, and sun tan lotions and screens, regardless of 838  
whether any of these products are over-the-counter drugs. 839

(3) "Over-the-counter drugs" means a drug that contains a 840  
label that identifies the product as a drug as required by 21 841  
C.F.R. 201.66, which label includes a drug facts panel or a 842  
statement of the active ingredients with a list of those 843  
ingredients contained in the compound, substance, or 844  
preparation. 845

(SS) (1) "Lease" or "rental" means any transfer of the 846  
possession or control of tangible personal property for a fixed 847  
or indefinite term, for consideration. "Lease" or "rental" 848  
includes future options to purchase or extend, and agreements 849  
described in 26 U.S.C. 7701(h) (1) covering motor vehicles and 850  
trailers where the amount of consideration may be increased or 851  
decreased by reference to the amount realized upon the sale or 852  
disposition of the property. "Lease" or "rental" does not 853  
include: 854

(a) A transfer of possession or control of tangible 855  
personal property under a security agreement or a deferred 856  
payment plan that requires the transfer of title upon completion 857  
of the required payments; 858

(b) A transfer of possession or control of tangible 859  
personal property under an agreement that requires the transfer 860  
of title upon completion of required payments and payment of an 861

option price that does not exceed the greater of one hundred 862  
dollars or one per cent of the total required payments; 863

(c) Providing tangible personal property along with an 864  
operator for a fixed or indefinite period of time, if the 865  
operator is necessary for the property to perform as designed. 866  
For purposes of this division, the operator must do more than 867  
maintain, inspect, or set up the tangible personal property. 868

(2) "Lease" and "rental," as defined in division (SS) of 869  
this section, shall not apply to leases or rentals that exist 870  
before June 26, 2003. 871

(3) "Lease" and "rental" have the same meaning as in 872  
division (SS) (1) of this section regardless of whether a 873  
transaction is characterized as a lease or rental under 874  
generally accepted accounting principles, the Internal Revenue 875  
Code, Title XIII of the Revised Code, or other federal, state, 876  
or local laws. 877

(TT) "Mobile telecommunications service" has the same 878  
meaning as in the "Mobile Telecommunications Sourcing Act," Pub. 879  
L. No. 106-252, 114 Stat. 631 (2000), 4 U.S.C.A. 124(7), as 880  
amended, and, on and after August 1, 2003, includes related fees 881  
and ancillary services, including universal service fees, 882  
detailed billing service, directory assistance, service 883  
initiation, voice mail service, and vertical services, such as 884  
caller ID and three-way calling. 885

(UU) "Certified service provider" has the same meaning as 886  
in section 5740.01 of the Revised Code. 887

(VV) "Satellite broadcasting service" means the 888  
distribution or broadcasting of programming or services by 889  
satellite directly to the subscriber's receiving equipment 890

without the use of ground receiving or distribution equipment, 891  
except the subscriber's receiving equipment or equipment used in 892  
the uplink process to the satellite, and includes all service 893  
and rental charges, premium channels or other special services, 894  
installation and repair service charges, and any other charges 895  
having any connection with the provision of the satellite 896  
broadcasting service. 897

(WW) "Tangible personal property" means personal property 898  
that can be seen, weighed, measured, felt, or touched, or that 899  
is in any other manner perceptible to the senses. For purposes 900  
of this chapter and Chapter 5741. of the Revised Code, "tangible 901  
personal property" includes motor vehicles, electricity, water, 902  
gas, steam, and prewritten computer software. 903

(XX) "Municipal gas utility" means a municipal corporation 904  
that owns or operates a system for the distribution of natural 905  
gas. 906

(YY) "Computer" means an electronic device that accepts 907  
information in digital or similar form and manipulates it for a 908  
result based on a sequence of instructions. 909

(ZZ) "Computer software" means a set of coded instructions 910  
designed to cause a computer or automatic data processing 911  
equipment to perform a task. 912

(AAA) "Delivered electronically" means delivery of 913  
computer software from the seller to the purchaser by means 914  
other than tangible storage media. 915

(BBB) "Prewritten computer software" means computer 916  
software, including prewritten upgrades, that is not designed 917  
and developed by the author or other creator to the 918  
specifications of a specific purchaser. The combining of two or 919



more prewritten computer software programs or prewritten 920  
portions thereof does not cause the combination to be other than 921  
prewritten computer software. "Prewritten computer software" 922  
includes software designed and developed by the author or other 923  
creator to the specifications of a specific purchaser when it is 924  
sold to a person other than the purchaser. If a person modifies 925  
or enhances computer software of which the person is not the 926  
author or creator, the person shall be deemed to be the author 927  
or creator only of such person's modifications or enhancements. 928  
Prewritten computer software or a prewritten portion thereof 929  
that is modified or enhanced to any degree, where such 930  
modification or enhancement is designed and developed to the 931  
specifications of a specific purchaser, remains prewritten 932  
computer software; provided, however, that where there is a 933  
reasonable, separately stated charge or an invoice or other 934  
statement of the price given to the purchaser for the 935  
modification or enhancement, the modification or enhancement 936  
shall not constitute prewritten computer software. 937

(CCC) (1) "Food" means substances, whether in liquid, 938  
concentrated, solid, frozen, dried, or dehydrated form, that are 939  
sold for ingestion or chewing by humans and are consumed for 940  
their taste or nutritional value. "Food" does not include 941  
alcoholic beverages, dietary supplements, soft drinks, or 942  
tobacco. 943

(2) As used in division (CCC) (1) of this section: 944

(a) "Dietary supplements" means any product, other than 945  
tobacco, that is intended to supplement the diet and that is 946  
intended for ingestion in tablet, capsule, powder, softgel, 947  
gelcap, or liquid form, or, if not intended for ingestion in 948  
such a form, is not represented as conventional food for use as 949

a sole item of a meal or of the diet; that is required to be 950  
labeled as a dietary supplement, identifiable by the "supplement 951  
facts" box found on the label, as required by 21 C.F.R. 101.36; 952  
and that contains one or more of the following dietary 953  
ingredients: 954

- (i) A vitamin; 955
- (ii) A mineral; 956
- (iii) An herb or other botanical; 957
- (iv) An amino acid; 958
- (v) A dietary substance for use by humans to supplement 959  
the diet by increasing the total dietary intake; 960
- (vi) A concentrate, metabolite, constituent, extract, or 961  
combination of any ingredient described in divisions (CCC) (2) (a) 962  
(i) to (v) of this section. 963

(b) "Soft drinks" means nonalcoholic beverages that 964  
contain natural or artificial sweeteners. "Soft drinks" does not 965  
include beverages that contain milk or milk products, soy, rice, 966  
or similar milk substitutes, or that contains greater than fifty 967  
per cent vegetable or fruit juice by volume. 968

(DDD) "Drug" means a compound, substance, or preparation, 969  
and any component of a compound, substance, or preparation, 970  
other than food, dietary supplements, or alcoholic beverages 971  
that is recognized in the official United States pharmacopoeia, 972  
official homeopathic pharmacopoeia of the United States, or 973  
official national formulary, and supplements to them; is 974  
intended for use in the diagnosis, cure, mitigation, treatment, 975  
or prevention of disease; or is intended to affect the structure 976  
or any function of the body. 977

(EEE) "Prescription" means an order, formula, or recipe 978  
issued in any form of oral, written, electronic, or other means 979  
of transmission by a duly licensed practitioner authorized by 980  
the laws of this state to issue a prescription. 981

(FFF) "Durable medical equipment" means equipment, 982  
including repair and replacement parts for such equipment, that 983  
can withstand repeated use, is primarily and customarily used to 984  
serve a medical purpose, generally is not useful to a person in 985  
the absence of illness or injury, and is not worn in or on the 986  
body. "Durable medical equipment" does not include mobility 987  
enhancing equipment. 988

(GGG) "Mobility enhancing equipment" means equipment, 989  
including repair and replacement parts for such equipment, that 990  
is primarily and customarily used to provide or increase the 991  
ability to move from one place to another and is appropriate for 992  
use either in a home or a motor vehicle, that is not generally 993  
used by persons with normal mobility, and that does not include 994  
any motor vehicle or equipment on a motor vehicle normally 995  
provided by a motor vehicle manufacturer. "Mobility enhancing 996  
equipment" does not include durable medical equipment. 997

(HHH) "Prosthetic device" means a replacement, corrective, 998  
or supportive device, including repair and replacement parts for 999  
the device, worn on or in the human body to artificially replace 1000  
a missing portion of the body, prevent or correct physical 1001  
deformity or malfunction, or support a weak or deformed portion 1002  
of the body. As used in this division, before July 1, 2019, 1003  
"prosthetic device" does not include corrective eyeglasses, 1004  
contact lenses, or dental prosthesis. On or after July 1, 2019, 1005  
"prosthetic device" does not include dental prosthesis but does 1006  
include corrective eyeglasses or contact lenses. 1007

(III) (1) "Fractional aircraft ownership program" means a program in which persons within an affiliated group sell and manage fractional ownership program aircraft, provided that at least one hundred airworthy aircraft are operated in the program and the program meets all of the following criteria:

(a) Management services are provided by at least one program manager within an affiliated group on behalf of the fractional owners.

(b) Each program aircraft is owned or possessed by at least one fractional owner.

(c) Each fractional owner owns or possesses at least a one-sixteenth interest in at least one fixed-wing program aircraft.

(d) A dry-lease aircraft interchange arrangement is in effect among all of the fractional owners.

(e) Multi-year program agreements are in effect regarding the fractional ownership, management services, and dry-lease aircraft interchange arrangement aspects of the program.

(2) As used in division (III) (1) of this section:

(a) "Affiliated group" has the same meaning as in division (B) (3) (e) of this section.

(b) "Fractional owner" means a person that owns or possesses at least a one-sixteenth interest in a program aircraft and has entered into the agreements described in division (III) (1) (e) of this section.

(c) "Fractional ownership program aircraft" or "program aircraft" means a turbojet aircraft that is owned or possessed by a fractional owner and that has been included in a dry-lease

aircraft interchange arrangement and agreement under divisions 1036  
(III) (1) (d) and (e) of this section, or an aircraft a program 1037  
manager owns or possesses primarily for use in a fractional 1038  
aircraft ownership program. 1039

(d) "Management services" means administrative and 1040  
aviation support services furnished under a fractional aircraft 1041  
ownership program in accordance with a management services 1042  
agreement under division (III) (1) (e) of this section, and 1043  
offered by the program manager to the fractional owners, 1044  
including, at a minimum, the establishment and implementation of 1045  
safety guidelines; the coordination of the scheduling of the 1046  
program aircraft and crews; program aircraft maintenance; 1047  
program aircraft insurance; crew training for crews employed, 1048  
furnished, or contracted by the program manager or the 1049  
fractional owner; the satisfaction of record-keeping 1050  
requirements; and the development and use of an operations 1051  
manual and a maintenance manual for the fractional aircraft 1052  
ownership program. 1053

(e) "Program manager" means the person that offers 1054  
management services to fractional owners pursuant to a 1055  
management services agreement under division (III) (1) (e) of this 1056  
section. 1057

(JJJ) "Electronic publishing" means providing access to 1058  
one or more of the following primarily for business customers, 1059  
including the federal government or a state government or a 1060  
political subdivision thereof, to conduct research: news; 1061  
business, financial, legal, consumer, or credit materials; 1062  
editorials, columns, reader commentary, or features; photos or 1063  
images; archival or research material; legal notices, identity 1064  
verification, or public records; scientific, educational, 1065

instructional, technical, professional, trade, or other literary 1066  
materials; or other similar information which has been gathered 1067  
and made available by the provider to the consumer in an 1068  
electronic format. Providing electronic publishing includes the 1069  
functions necessary for the acquisition, formatting, editing, 1070  
storage, and dissemination of data or information that is the 1071  
subject of a sale. 1072

(KKK) "Medicaid health insuring corporation" means a 1073  
health insuring corporation that holds a certificate of 1074  
authority under Chapter 1751. of the Revised Code and is under 1075  
contract with the department of medicaid pursuant to section 1076  
5167.10 of the Revised Code. 1077

(LLL) "Managed care premium" means any premium, 1078  
capitation, or other payment a medicaid health insuring 1079  
corporation receives for providing or arranging for the 1080  
provision of health care services to its members or enrollees 1081  
residing in this state. 1082

(MMM) "Captive deer" means deer and other cervidae that 1083  
have been legally acquired, or their offspring, that are 1084  
privately owned for agricultural or farming purposes. 1085

(NNN) "Gift card" means a document, card, certificate, or 1086  
other record, whether tangible or intangible, that may be 1087  
redeemed by a consumer for a dollar value when making a purchase 1088  
of tangible personal property or services. 1089

(OOO) "Specified digital product" means an electronically 1090  
transferred digital audiovisual work, digital audio work, or 1091  
digital book. 1092

As used in division (OOO) of this section: 1093

(1) "Digital audiovisual work" means a series of related 1094

images that, when shown in succession, impart an impression of 1095  
motion, together with accompanying sounds, if any. 1096

(2) "Digital audio work" means a work that results from 1097  
the fixation of a series of musical, spoken, or other sounds, 1098  
including digitized sound files that are downloaded onto a 1099  
device and that may be used to alert the customer with respect 1100  
to a communication. 1101

(3) "Digital book" means a work that is generally 1102  
recognized in the ordinary and usual sense as a book. 1103

(4) "Electronically transferred" means obtained by the 1104  
purchaser by means other than tangible storage media. 1105

(PPP) "Digital advertising services" means providing 1106  
access, by means of telecommunications equipment, to computer 1107  
equipment that is used to enter, upload, download, review, 1108  
manipulate, store, add, or delete data for the purpose of 1109  
electronically displaying, delivering, placing, or transferring 1110  
promotional advertisements to potential customers about products 1111  
or services or about industry or business brands. 1112

(QQQ) "Peer-to-peer car sharing program" has the same 1113  
meaning as in section 4516.01 of the Revised Code. 1114

(RRR) "Megaproject" and "megaproject operator" have the 1115  
same meanings as in section 122.17 of the Revised Code. 1116

(SSS) (1) "Diaper" means an absorbent garment worn by 1117  
humans who are incapable of, or have difficulty, controlling 1118  
their bladder or bowel movements. 1119

(2) "Children's diaper" means a diaper marketed to be worn 1120  
by children. 1121

(3) "Adult diaper" means a diaper other than a children's 1122

diaper.	1123
(TTT) "Sales tax holiday" means three or more dates on	1124
which sales of all eligible tangible personal property are	1125
exempt from the taxes levied under sections 5739.02, 5739.021,	1126
5739.023, 5739.026, 5741.02, 5741.021, 5741.022, and 5741.023 of	1127
the Revised Code.	1128
(UUU) "Eligible tangible personal property" means any item	1129
of tangible personal property that meets both of the following	1130
requirements:	1131
(1) The price of the item does not exceed five hundred	1132
dollars;	1133
(2) The item is not a watercraft or outboard motor	1134
required to be titled pursuant to Chapter 1548. of the Revised	1135
Code, a motor vehicle, an alcoholic beverage, tobacco, a vapor	1136
product as defined in section 5743.01 of the Revised Code, or an	1137
item that contains marijuana as defined in section 3796.01 of	1138
the Revised Code.	1139
(VVV) "Alcoholic beverages" means beverages that are	1140
suitable for human consumption and contain one-half of one per	1141
cent or more of alcohol by volume.	1142
(WWW) "Tobacco" means cigarettes, cigars, chewing or pipe	1143
tobacco, or any other item that contains tobacco.	1144
(XXX) (1) "Delivery network company" means a person that	1145
operates a business platform, including a web site or mobile	1146
application, to facilitate delivery network services.	1147
(2) "Delivery network courier" means an individual	1148
connected to a consumer through a delivery network company and	1149
who provides delivery network services to that consumer.	1150



(3) "Delivery network services" means both of the 1151  
following when performed as part of a single transaction: 1152

(a) Pickup of a local product by a delivery network 1153  
courier from a local merchant that is not under common ownership 1154  
or control of the delivery network company through which the 1155  
transaction was initiated, and which may include selection, 1156  
collection, and purchase of the local product; 1157

(b) Delivery by the delivery network courier of that local 1158  
product to a location designated by the consumer that is not 1159  
more than seventy-five miles from the local merchant's place of 1160  
business where the pickup described in division (XXX) (3) (a) of 1161  
this section occurs. 1162

(4) "Local merchant" means a person engaged in selling 1163  
local products from a temporary or fixed place of business in 1164  
this state, including a kitchen, restaurant, grocery store, 1165  
retail store, or convenience store. 1166

(5) "Local product" means any tangible personal property, 1167  
including food, but excluding freight, mail, or a package to 1168  
which postage is affixed. 1169

(YYY) "Firearm safety device" means equipment that is 1170  
designed to prevent unauthorized access to, or the operation or 1171  
discharge of, a firearm and that is either of the following: 1172

(1) A device that, when installed on a firearm, is 1173  
designed to prevent the firearm from being operated without 1174  
first deactivating the device. 1175

(2) A gun safe, gun case, lockbox, or other device that is 1176  
designed to prevent access to a firearm unless an individual 1177  
uses a key, a combination, biometric data, or other similar 1178  
means. 1179

A "firearm safety device" does not include a glass-faced cabinet or other form of storage that is primarily designed to allow for the display of firearms. 1180  
1181  
1182

**Sec. 5739.02.** For the purpose of providing revenue with 1183  
which to meet the needs of the state, for the use of the general 1184  
revenue fund of the state, for the purpose of securing a 1185  
thorough and efficient system of common schools throughout the 1186  
state, for the purpose of affording revenues, in addition to 1187  
those from general property taxes, permitted under 1188  
constitutional limitations, and from other sources, for the 1189  
support of local governmental functions, and for the purpose of 1190  
reimbursing the state for the expense of administering this 1191  
chapter, an excise tax is hereby levied on each retail sale made 1192  
in this state. 1193

(A) (1) The tax shall be collected as provided in section 1194  
5739.025 of the Revised Code. The rate of the tax shall be five 1195  
and three-fourths per cent. The tax applies and is collectible 1196  
when the sale is made, regardless of the time when the price is 1197  
paid or delivered. 1198

(2) In the case of the lease or rental, with a fixed term 1199  
of more than thirty days or an indefinite term with a minimum 1200  
period of more than thirty days, of any motor vehicles designed 1201  
by the manufacturer to carry a load of not more than one ton, 1202  
watercraft, outboard motor, or aircraft, or of any tangible 1203  
personal property, other than motor vehicles designed by the 1204  
manufacturer to carry a load of more than one ton, to be used by 1205  
the lessee or renter primarily for business purposes, the tax 1206  
shall be collected by the vendor at the time the lease or rental 1207  
is consummated and shall be calculated by the vendor on the 1208  
basis of the total amount to be paid by the lessee or renter 1209

under the lease agreement. If the total amount of the 1210  
consideration for the lease or rental includes amounts that are 1211  
not calculated at the time the lease or rental is executed, the 1212  
tax shall be calculated and collected by the vendor at the time 1213  
such amounts are billed to the lessee or renter. In the case of 1214  
an open-end lease or rental, the tax shall be calculated by the 1215  
vendor on the basis of the total amount to be paid during the 1216  
initial fixed term of the lease or rental, and for each 1217  
subsequent renewal period as it comes due. As used in this 1218  
division, "motor vehicle" has the same meaning as in section 1219  
4501.01 of the Revised Code, and "watercraft" includes an 1220  
outdrive unit attached to the watercraft. 1221

A lease with a renewal clause and a termination penalty or 1222  
similar provision that applies if the renewal clause is not 1223  
exercised is presumed to be a sham transaction. In such a case, 1224  
the tax shall be calculated and paid on the basis of the entire 1225  
length of the lease period, including any renewal periods, until 1226  
the termination penalty or similar provision no longer applies. 1227  
The taxpayer shall bear the burden, by a preponderance of the 1228  
evidence, that the transaction or series of transactions is not 1229  
a sham transaction. 1230

(3) Except as provided in division (A) (2) of this section, 1231  
in the case of a sale, the price of which consists in whole or 1232  
in part of the lease or rental of tangible personal property, 1233  
the tax shall be measured by the installments of that lease or 1234  
rental. 1235

(4) In the case of a sale of a physical fitness facility 1236  
service or recreation and sports club service, the price of 1237  
which consists in whole or in part of a membership for the 1238  
receipt of the benefit of the service, the tax applicable to the 1239

sale shall be measured by the installments thereof.	1240
(B) The tax does not apply to the following:	1241
(1) Sales to the state or any of its political subdivisions, or to any other state or its political subdivisions if the laws of that state exempt from taxation sales made to this state and its political subdivisions including either of the following:	1242
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(a) Sales or rentals of tangible personal property by construction contractors or subcontractors to provide temporary traffic control or temporary structures, including material and equipment used to comply with the Ohio manual of uniform traffic control devices adopted pursuant to section 4511.09 of the Revised Code, whereby the state or any of its political subdivisions take title to, or permanent or temporary possession of, such tangible personal property for use by the state or any of its political subdivisions, including for use by the general public thereof;	1247
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(b) Sales of services by construction contractors or subcontractors to provide temporary traffic control or structures, including labor used to comply with the Ohio manual of uniform traffic control devices adopted pursuant to section 4511.09 of the Revised Code, whereby the state or any of its political subdivisions, including the general public thereof, receive the benefit of such services.	1257
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As used in divisions (B) (1) (a) and (b) of this section, "temporary structures" include temporary roads, bridges, drains, and pavement.	1264
	1265
	1266
(2) Sales of food for human consumption off the premises where sold;	1267
	1268

(3) Sales of food sold to students only in a cafeteria,	1269
dormitory, fraternity, or sorority maintained in a private,	1270
public, or parochial school, college, or university;	1271
(4) Sales of newspapers and sales or transfers of	1272
magazines distributed as controlled circulation publications;	1273
(5) The furnishing, preparing, or serving of meals without	1274
charge by an employer to an employee provided the employer	1275
records the meals as part compensation for services performed or	1276
work done;	1277
(6) (a) Sales of motor fuel upon receipt, use,	1278
distribution, or sale of which in this state a tax is imposed by	1279
the law of this state, but this exemption shall not apply to the	1280
sale of motor fuel on which a refund of the tax is allowable	1281
under division (A) of section 5735.14 of the Revised Code; and	1282
the tax commissioner may deduct the amount of tax levied by this	1283
section applicable to the price of motor fuel when granting a	1284
refund of motor fuel tax pursuant to division (A) of section	1285
5735.14 of the Revised Code and shall cause the amount deducted	1286
to be paid into the general revenue fund of this state;	1287
(b) Sales of motor fuel other than that described in	1288
division (B) (6) (a) of this section and used for powering a	1289
refrigeration unit on a vehicle other than one used primarily to	1290
provide comfort to the operator or occupants of the vehicle.	1291
(7) Sales of natural gas by a natural gas company or	1292
municipal gas utility, of water by a water-works company, or of	1293
steam by a heating company, if in each case the thing sold is	1294
delivered to consumers through pipes or conduits, and all sales	1295
of communications services by a telegraph company, all terms as	1296
defined in section 5727.01 of the Revised Code, and sales of	1297

electricity delivered through wires;	1298
(8) Casual sales by a person, or auctioneer employed	1299
directly by the person to conduct such sales, except as to such	1300
sales of motor vehicles, watercraft or outboard motors required	1301
to be titled under section 1548.06 of the Revised Code,	1302
watercraft documented with the United States coast guard,	1303
snowmobiles, and all-purpose vehicles as defined in section	1304
4519.01 of the Revised Code;	1305
(9) (a) Sales of services or tangible personal property,	1306
other than motor vehicles, mobile homes, and manufactured homes,	1307
by churches, organizations exempt from taxation under section	1308
501(c) (3) of the Internal Revenue Code of 1986, or nonprofit	1309
organizations operated exclusively for charitable purposes as	1310
defined in division (B) (12) of this section, provided that the	1311
number of days on which such tangible personal property or	1312
services, other than items never subject to the tax, are sold	1313
does not exceed six in any calendar year, except as otherwise	1314
provided in division (B) (9) (b) of this section. If the number of	1315
days on which such sales are made exceeds six in any calendar	1316
year, the church or organization shall be considered to be	1317
engaged in business and all subsequent sales by it shall be	1318
subject to the tax. In counting the number of days, all sales by	1319
groups within a church or within an organization shall be	1320
considered to be sales of that church or organization.	1321
(b) The limitation on the number of days on which tax-	1322
exempt sales may be made by a church or organization under	1323
division (B) (9) (a) of this section does not apply to sales made	1324
by student clubs and other groups of students of a primary or	1325
secondary school, or a parent-teacher association, booster	1326
group, or similar organization that raises money to support or	1327

fund curricular or extracurricular activities of a primary or 1328  
secondary school. 1329

(c) Divisions (B) (9) (a) and (b) of this section do not 1330  
apply to sales by a noncommercial educational radio or 1331  
television broadcasting station. 1332

(10) Sales not within the taxing power of this state under 1333  
the Constitution or laws of the United States or the 1334  
Constitution of this state including either of the following: 1335

(a) Sales or rentals of tangible personal property by 1336  
construction contractors or subcontractors to provide temporary 1337  
traffic control or temporary structures, including material and 1338  
equipment used to comply with the Ohio manual of uniform traffic 1339  
control devices adopted pursuant to section 4511.09 of the 1340  
Revised Code, whereby the United States takes title to, or 1341  
permanent or temporary possession of, such tangible personal 1342  
property for use by the United States including for use by the 1343  
general public thereof; 1344

(b) Sales of services by construction contractors or 1345  
subcontractors to provide temporary traffic control or 1346  
structures, including labor used to comply with the Ohio manual 1347  
of uniform traffic control devices adopted pursuant to section 1348  
4511.09 of the Revised Code, whereby the United States, 1349  
including the general public thereof, receives the benefit of 1350  
such services. 1351

As used in divisions (B) (10) (a) and (b) of this section, 1352  
"temporary structures" include temporary roads, bridges, drains, 1353  
and pavement. 1354

(11) Except for transactions that are sales under division 1355  
(B) (3) (p) of section 5739.01 of the Revised Code, the 1356

transportation of persons or property, unless the transportation 1357  
is by a private investigation and security service; 1358

(12) Sales of tangible personal property or services to 1359  
churches, to organizations exempt from taxation under section 1360  
501(c)(3) of the Internal Revenue Code of 1986, and to any other 1361  
nonprofit organizations operated exclusively for charitable 1362  
purposes in this state, no part of the net income of which 1363  
inures to the benefit of any private shareholder or individual, 1364  
and no substantial part of the activities of which consists of 1365  
carrying on propaganda or otherwise attempting to influence 1366  
legislation; sales to offices administering one or more homes 1367  
for the aged or one or more hospital facilities exempt under 1368  
section 140.08 of the Revised Code; and sales to organizations 1369  
described in division (D) of section 5709.12 of the Revised 1370  
Code. 1371

"Charitable purposes" means the relief of poverty; the 1372  
improvement of health through the alleviation of illness, 1373  
disease, or injury; the operation of an organization exclusively 1374  
for the provision of professional, laundry, printing, and 1375  
purchasing services to hospitals or charitable institutions; the 1376  
operation of a home for the aged, as defined in section 5701.13 1377  
of the Revised Code; the operation of a radio or television 1378  
broadcasting station that is licensed by the federal 1379  
communications commission as a noncommercial educational radio 1380  
or television station; the operation of a nonprofit animal 1381  
adoption service or a county humane society; the promotion of 1382  
education by an institution of learning that maintains a faculty 1383  
of qualified instructors, teaches regular continuous courses of 1384  
study, and confers a recognized diploma upon completion of a 1385  
specific curriculum; the operation of a parent-teacher 1386  
association, booster group, or similar organization primarily 1387



engaged in the promotion and support of the curricular or 1388  
extracurricular activities of a primary or secondary school; the 1389  
operation of a community or area center in which presentations 1390  
in music, dramatics, the arts, and related fields are made in 1391  
order to foster public interest and education therein; the 1392  
production of performances in music, dramatics, and the arts; or 1393  
the promotion of education by an organization engaged in 1394  
carrying on research in, or the dissemination of, scientific and 1395  
technological knowledge and information primarily for the 1396  
public. 1397

Nothing in this division shall be deemed to exempt sales 1398  
to any organization for use in the operation or carrying on of a 1399  
trade or business, or sales to a home for the aged for use in 1400  
the operation of independent living facilities as defined in 1401  
division (A) of section 5709.12 of the Revised Code. 1402

(13) Building and construction materials and services sold 1403  
to construction contractors for incorporation into a structure 1404  
or improvement to real property under a construction contract 1405  
with this state or a political subdivision of this state, or 1406  
with the United States government or any of its agencies; 1407  
building and construction materials and services sold to 1408  
construction contractors for incorporation into a structure or 1409  
improvement to real property that are accepted for ownership by 1410  
this state or any of its political subdivisions, or by the 1411  
United States government or any of its agencies at the time of 1412  
completion of the structures or improvements; building and 1413  
construction materials sold to construction contractors for 1414  
incorporation into a horticulture structure or livestock 1415  
structure for a person engaged in the business of horticulture 1416  
or producing livestock; building materials and services sold to 1417  
a construction contractor for incorporation into a house of 1418

public worship or religious education, or a building used 1419  
exclusively for charitable purposes under a construction 1420  
contract with an organization whose purpose is as described in 1421  
division (B) (12) of this section; building materials and 1422  
services sold to a construction contractor for incorporation 1423  
into a building under a construction contract with an 1424  
organization exempt from taxation under section 501(c) (3) of the 1425  
Internal Revenue Code of 1986 when the building is to be used 1426  
exclusively for the organization's exempt purposes; tangible 1427  
personal property sold for incorporation into the construction 1428  
of a sports facility under section 307.696 of the Revised Code; 1429  
building and construction materials and services sold to a 1430  
construction contractor for incorporation into real property 1431  
outside this state if such materials and services, when sold to 1432  
a construction contractor in the state in which the real 1433  
property is located for incorporation into real property in that 1434  
state, would be exempt from a tax on sales levied by that state; 1435  
building and construction materials for incorporation into a 1436  
transportation facility pursuant to a public-private agreement 1437  
entered into under sections 5501.70 to 5501.83 of the Revised 1438  
Code; until one calendar year after the construction of a 1439  
convention center that qualifies for property tax exemption 1440  
under section 5709.084 of the Revised Code is completed, 1441  
building and construction materials and services sold to a 1442  
construction contractor for incorporation into the real property 1443  
comprising that convention center; and building and construction 1444  
materials sold for incorporation into a structure or improvement 1445  
to real property that is used primarily as, or primarily in 1446  
support of, a manufacturing facility or research and development 1447  
facility and that is to be owned by a megaproject operator upon 1448  
completion and located at the site of a megaproject that 1449  
satisfies the criteria described in division (A) (11) (a) (ii) of 1450

section 122.17 of the Revised Code, provided that the sale 1451  
occurs during the period that the megaproject operator has an 1452  
agreement for such megaproject with the tax credit authority 1453  
under division (D) of section 122.17 of the Revised Code that 1454  
remains in effect and has not expired or been terminated. 1455

(14) Sales of ships or vessels or rail rolling stock used 1456  
or to be used principally in interstate or foreign commerce, and 1457  
repairs, alterations, fuel, and lubricants for such ships or 1458  
vessels or rail rolling stock; 1459

(15) Sales to persons primarily engaged in any of the 1460  
activities mentioned in division (B) (42) (a), (g), or (h) of this 1461  
section, to persons engaged in making retail sales, or to 1462  
persons who purchase for sale from a manufacturer tangible 1463  
personal property that was produced by the manufacturer in 1464  
accordance with specific designs provided by the purchaser, of 1465  
packages, including material, labels, and parts for packages, 1466  
and of machinery, equipment, and material for use primarily in 1467  
packaging tangible personal property produced for sale, 1468  
including any machinery, equipment, and supplies used to make 1469  
labels or packages, to prepare packages or products for 1470  
labeling, or to label packages or products, by or on the order 1471  
of the person doing the packaging, or sold at retail. "Packages" 1472  
includes bags, baskets, cartons, crates, boxes, cans, bottles, 1473  
bindings, wrappings, and other similar devices and containers, 1474  
but does not include motor vehicles or bulk tanks, trailers, or 1475  
similar devices attached to motor vehicles. "Packaging" means 1476  
placing in a package. Division (B) (15) of this section does not 1477  
apply to persons engaged in highway transportation for hire. 1478

(16) Sales of food to persons using supplemental nutrition 1479  
assistance program benefits to purchase the food. As used in 1480

this division, "food" has the same meaning as in 7 U.S.C. 2012 1481  
and federal regulations adopted pursuant to the Food and 1482  
Nutrition Act of 2008. 1483

(17) Sales to persons engaged in farming, agriculture, 1484  
horticulture, or floriculture, of tangible personal property for 1485  
use or consumption primarily in the production by farming, 1486  
agriculture, horticulture, or floriculture of other tangible 1487  
personal property for use or consumption primarily in the 1488  
production of tangible personal property for sale by farming, 1489  
agriculture, horticulture, or floriculture; or material and 1490  
parts for incorporation into any such tangible personal property 1491  
for use or consumption in production; and of tangible personal 1492  
property for such use or consumption in the conditioning or 1493  
holding of products produced by and for such use, consumption, 1494  
or sale by persons engaged in farming, agriculture, 1495  
horticulture, or floriculture, except where such property is 1496  
incorporated into real property; 1497

(18) Sales of drugs for a human being that may be 1498  
dispensed only pursuant to a prescription; insulin as recognized 1499  
in the official United States pharmacopoeia; urine and blood 1500  
testing materials when used by diabetics or persons with 1501  
hypoglycemia to test for glucose or acetone; hypodermic syringes 1502  
and needles when used by diabetics for insulin injections; 1503  
epoetin alfa when purchased for use in the treatment of persons 1504  
with medical disease; hospital beds when purchased by hospitals, 1505  
nursing homes, or other medical facilities; and medical oxygen 1506  
and medical oxygen-dispensing equipment when purchased by 1507  
hospitals, nursing homes, or other medical facilities; 1508

(19) Sales of prosthetic devices, durable medical 1509  
equipment for home use, or mobility enhancing equipment, when 1510

made pursuant to a prescription and when such devices or	1511
equipment are for use by a human being.	1512
(20) Sales of emergency and fire protection vehicles and	1513
equipment to nonprofit organizations for use solely in providing	1514
fire protection and emergency services, including trauma care	1515
and emergency medical services, for political subdivisions of	1516
the state;	1517
(21) Sales of tangible personal property manufactured in	1518
this state, if sold by the manufacturer in this state to a	1519
retailer for use in the retail business of the retailer outside	1520
of this state and if possession is taken from the manufacturer	1521
by the purchaser within this state for the sole purpose of	1522
immediately removing the same from this state in a vehicle owned	1523
by the purchaser;	1524
(22) Sales of services provided by the state or any of its	1525
political subdivisions, agencies, instrumentalities,	1526
institutions, or authorities, or by governmental entities of the	1527
state or any of its political subdivisions, agencies,	1528
instrumentalities, institutions, or authorities;	1529
(23) Sales of motor vehicles to nonresidents of this state	1530
under the circumstances described in division (B) of section	1531
5739.029 of the Revised Code;	1532
(24) Sales to persons engaged in the preparation of eggs	1533
for sale of tangible personal property used or consumed directly	1534
in such preparation, including such tangible personal property	1535
used for cleaning, sanitizing, preserving, grading, sorting, and	1536
classifying by size; packages, including material and parts for	1537
packages, and machinery, equipment, and material for use in	1538
packaging eggs for sale; and handling and transportation	1539

equipment and parts therefor, except motor vehicles licensed to 1540  
operate on public highways, used in intraplant or interplant 1541  
transfers or shipment of eggs in the process of preparation for 1542  
sale, when the plant or plants within or between which such 1543  
transfers or shipments occur are operated by the same person. 1544  
"Packages" includes containers, cases, baskets, flats, fillers, 1545  
filler flats, cartons, closure materials, labels, and labeling 1546  
materials, and "packaging" means placing therein. 1547

(25) (a) Sales of water to a consumer for residential use; 1548

(b) Sales of water by a nonprofit corporation engaged 1549  
exclusively in the treatment, distribution, and sale of water to 1550  
consumers, if such water is delivered to consumers through pipes 1551  
or tubing. 1552

(26) Fees charged for inspection or reinspection of motor 1553  
vehicles under section 3704.14 of the Revised Code; 1554

(27) Sales to persons licensed to conduct a food service 1555  
operation pursuant to section 3717.43 of the Revised Code, of 1556  
tangible personal property primarily used directly for the 1557  
following: 1558

(a) To prepare food for human consumption for sale; 1559

(b) To preserve food that has been or will be prepared for 1560  
human consumption for sale by the food service operator, not 1561  
including tangible personal property used to display food for 1562  
selection by the consumer; 1563

(c) To clean tangible personal property used to prepare or 1564  
serve food for human consumption for sale. 1565

(28) Sales of animals by nonprofit animal adoption 1566  
services or county humane societies; 1567

(29) Sales of services to a corporation described in	1568
division (A) of section 5709.72 of the Revised Code, and sales	1569
of tangible personal property that qualifies for exemption from	1570
taxation under section 5709.72 of the Revised Code;	1571
(30) Sales and installation of agricultural land tile, as	1572
defined in division (B) (5) (a) of section 5739.01 of the Revised	1573
Code;	1574
(31) Sales and erection or installation of portable grain	1575
bins, as defined in division (B) (5) (b) of section 5739.01 of the	1576
Revised Code;	1577
(32) The sale, lease, repair, and maintenance of, parts	1578
for, or items attached to or incorporated in, motor vehicles	1579
that are primarily used for transporting tangible personal	1580
property belonging to others by a person engaged in highway	1581
transportation for hire, except for packages and packaging used	1582
for the transportation of tangible personal property;	1583
(33) Sales to the state headquarters of any veterans'	1584
organization in this state that is either incorporated and	1585
issued a charter by the congress of the United States or is	1586
recognized by the United States veterans administration, for use	1587
by the headquarters;	1588
(34) Sales to a telecommunications service vendor, mobile	1589
telecommunications service vendor, or satellite broadcasting	1590
service vendor of tangible personal property and services used	1591
directly and primarily in transmitting, receiving, switching, or	1592
recording any interactive, one- or two-way electromagnetic	1593
communications, including voice, image, data, and information,	1594
through the use of any medium, including, but not limited to,	1595
poles, wires, cables, switching equipment, computers, and record	1596

storage devices and media, and component parts for the tangible 1597  
personal property. The exemption provided in this division shall 1598  
be in lieu of all other exemptions under division (B) (42) (a) or 1599  
(n) of this section to which the vendor may otherwise be 1600  
entitled, based upon the use of the thing purchased in providing 1601  
the telecommunications, mobile telecommunications, or satellite 1602  
broadcasting service. 1603

(35) (a) Sales where the purpose of the consumer is to use 1604  
or consume the things transferred in making retail sales and 1605  
consisting of newspaper inserts, catalogues, coupons, flyers, 1606  
gift certificates, or other advertising material that prices and 1607  
describes tangible personal property offered for retail sale. 1608

(b) Sales to direct marketing vendors of preliminary 1609  
materials such as photographs, artwork, and typesetting that 1610  
will be used in printing advertising material; and of printed 1611  
matter that offers free merchandise or chances to win sweepstake 1612  
prizes and that is mailed to potential customers with 1613  
advertising material described in division (B) (35) (a) of this 1614  
section; 1615

(c) Sales of equipment such as telephones, computers, 1616  
facsimile machines, and similar tangible personal property 1617  
primarily used to accept orders for direct marketing retail 1618  
sales. 1619

(d) Sales of automatic food vending machines that preserve 1620  
food with a shelf life of forty-five days or less by 1621  
refrigeration and dispense it to the consumer. 1622

For purposes of division (B) (35) of this section, "direct 1623  
marketing" means the method of selling where consumers order 1624  
tangible personal property by United States mail, delivery 1625



service, or telecommunication and the vendor delivers or ships 1626  
the tangible personal property sold to the consumer from a 1627  
warehouse, catalogue distribution center, or similar fulfillment 1628  
facility by means of the United States mail, delivery service, 1629  
or common carrier. 1630

(36) Sales to a person engaged in the business of 1631  
horticulture or producing livestock of materials to be 1632  
incorporated into a horticulture structure or livestock 1633  
structure; 1634

(37) Sales of personal computers, computer monitors, 1635  
computer keyboards, modems, and other peripheral computer 1636  
equipment to an individual who is licensed or certified to teach 1637  
in an elementary or a secondary school in this state for use by 1638  
that individual in preparation for teaching elementary or 1639  
secondary school students; 1640

(38) Sales of tangible personal property that is not 1641  
required to be registered or licensed under the laws of this 1642  
state to a citizen of a foreign nation that is not a citizen of 1643  
the United States, provided the property is delivered to a 1644  
person in this state that is not a related member of the 1645  
purchaser, is physically present in this state for the sole 1646  
purpose of temporary storage and package consolidation, and is 1647  
subsequently delivered to the purchaser at a delivery address in 1648  
a foreign nation. As used in division (B)(38) of this section, 1649  
"related member" has the same meaning as in section 5733.042 of 1650  
the Revised Code, and "temporary storage" means the storage of 1651  
tangible personal property for a period of not more than sixty 1652  
days. 1653

(39) Sales of used manufactured homes and used mobile 1654  
homes, as defined in section 5739.0210 of the Revised Code, made 1655

on or after January 1, 2000; 1656

(40) Sales of tangible personal property and services to a 1657  
provider of electricity used or consumed directly and primarily 1658  
in generating, transmitting, or distributing electricity for use 1659  
by others, including property that is or is to be incorporated 1660  
into and will become a part of the consumer's production, 1661  
transmission, or distribution system and that retains its 1662  
classification as tangible personal property after 1663  
incorporation; fuel or power used in the production, 1664  
transmission, or distribution of electricity; energy conversion 1665  
equipment as defined in section 5727.01 of the Revised Code; and 1666  
tangible personal property and services used in the repair and 1667  
maintenance of the production, transmission, or distribution 1668  
system, including only those motor vehicles as are specially 1669  
designed and equipped for such use. The exemption provided in 1670  
this division shall be in lieu of all other exemptions in 1671  
division (B) (42) (a) or (n) of this section to which a provider 1672  
of electricity may otherwise be entitled based on the use of the 1673  
tangible personal property or service purchased in generating, 1674  
transmitting, or distributing electricity. 1675

(41) Sales to a person providing services under division 1676  
(B) (3) (p) of section 5739.01 of the Revised Code of tangible 1677  
personal property and services used directly and primarily in 1678  
providing taxable services under that section. 1679

(42) Sales where the purpose of the purchaser is to do any 1680  
of the following: 1681

(a) To incorporate the thing transferred as a material or 1682  
a part into tangible personal property to be produced for sale 1683  
by manufacturing, assembling, processing, or refining; or to use 1684  
or consume the thing transferred directly in producing tangible 1685

personal property for sale by mining, including, without 1686  
limitation, the extraction from the earth of all substances that 1687  
are classed geologically as minerals, or directly in the 1688  
rendition of a public utility service, except that the sales tax 1689  
levied by this section shall be collected upon all meals, 1690  
drinks, and food for human consumption sold when transporting 1691  
persons. This paragraph does not exempt from "retail sale" or 1692  
"sales at retail" the sale of tangible personal property that is 1693  
to be incorporated into a structure or improvement to real 1694  
property. 1695

(b) To hold the thing transferred as security for the 1696  
performance of an obligation of the vendor; 1697

(c) To resell, hold, use, or consume the thing transferred 1698  
as evidence of a contract of insurance; 1699

(d) To use or consume the thing directly in commercial 1700  
fishing; 1701

(e) To incorporate the thing transferred as a material or 1702  
a part into, or to use or consume the thing transferred directly 1703  
in the production of, magazines distributed as controlled 1704  
circulation publications; 1705

(f) To use or consume the thing transferred in the 1706  
production and preparation in suitable condition for market and 1707  
sale of printed, imprinted, overprinted, lithographic, 1708  
multilithic, blueprinted, photostatic, or other productions or 1709  
reproductions of written or graphic matter; 1710

(g) To use the thing transferred, as described in section 1711  
5739.011 of the Revised Code, primarily in a manufacturing 1712  
operation to produce tangible personal property for sale; 1713

(h) To use the benefit of a warranty, maintenance or 1714

service contract, or similar agreement, as described in division 1715  
(B) (7) of section 5739.01 of the Revised Code, to repair or 1716  
maintain tangible personal property, if all of the property that 1717  
is the subject of the warranty, contract, or agreement would not 1718  
be subject to the tax imposed by this section; 1719

(i) To use the thing transferred as qualified research and 1720  
development equipment; 1721

(j) To use or consume the thing transferred primarily in 1722  
storing, transporting, mailing, or otherwise handling purchased 1723  
sales inventory in a warehouse, distribution center, or similar 1724  
facility when the inventory is primarily distributed outside 1725  
this state to retail stores of the person who owns or controls 1726  
the warehouse, distribution center, or similar facility, to 1727  
retail stores of an affiliated group of which that person is a 1728  
member, or by means of direct marketing. This division does not 1729  
apply to motor vehicles registered for operation on the public 1730  
highways. As used in this division, "affiliated group" has the 1731  
same meaning as in division (B) (3) (e) of section 5739.01 of the 1732  
Revised Code and "direct marketing" has the same meaning as in 1733  
division (B) (35) of this section. 1734

(k) To use or consume the thing transferred to fulfill a 1735  
contractual obligation incurred by a warrantor pursuant to a 1736  
warranty provided as a part of the price of the tangible 1737  
personal property sold or by a vendor of a warranty, maintenance 1738  
or service contract, or similar agreement the provision of which 1739  
is defined as a sale under division (B) (7) of section 5739.01 of 1740  
the Revised Code; 1741

(l) To use or consume the thing transferred in the 1742  
production of a newspaper for distribution to the public; 1743

(m) To use tangible personal property to perform a service 1744  
listed in division (B) (3) of section 5739.01 of the Revised 1745  
Code, if the property is or is to be permanently transferred to 1746  
the consumer of the service as an integral part of the 1747  
performance of the service; 1748

(n) To use or consume the thing transferred primarily in 1749  
producing tangible personal property for sale by farming, 1750  
agriculture, horticulture, or floriculture. Persons engaged in 1751  
rendering farming, agriculture, horticulture, or floriculture 1752  
services for others are deemed engaged primarily in farming, 1753  
agriculture, horticulture, or floriculture. This paragraph does 1754  
not exempt from "retail sale" or "sales at retail" the sale of 1755  
tangible personal property that is to be incorporated into a 1756  
structure or improvement to real property. 1757

(o) To use or consume the thing transferred in acquiring, 1758  
formatting, editing, storing, and disseminating data or 1759  
information by electronic publishing; 1760

(p) To provide the thing transferred to the owner or 1761  
lessee of a motor vehicle that is being repaired or serviced, if 1762  
the thing transferred is a rented motor vehicle and the 1763  
purchaser is reimbursed for the cost of the rented motor vehicle 1764  
by a manufacturer, warrantor, or provider of a maintenance, 1765  
service, or other similar contract or agreement, with respect to 1766  
the motor vehicle that is being repaired or serviced; 1767

(q) To use or consume the thing transferred directly in 1768  
production of crude oil and natural gas for sale. Persons 1769  
engaged in rendering production services for others are deemed 1770  
engaged in production. 1771

As used in division (B) (42) (q) of this section, 1772

"production" means operations and tangible personal property 1773  
directly used to expose and evaluate an underground reservoir 1774  
that may contain hydrocarbon resources, prepare the wellbore for 1775  
production, and lift and control all substances yielded by the 1776  
reservoir to the surface of the earth. 1777

(i) For the purposes of division (B)(42)(q) of this 1778  
section, the "thing transferred" includes, but is not limited 1779  
to, any of the following: 1780

(I) Services provided in the construction of permanent 1781  
access roads, services provided in the construction of the well 1782  
site, and services provided in the construction of temporary 1783  
impoundments; 1784

(II) Equipment and rigging used for the specific purpose 1785  
of creating with integrity a wellbore pathway to underground 1786  
reservoirs; 1787

(III) Drilling and workover services used to work within a 1788  
subsurface wellbore, and tangible personal property directly 1789  
used in providing such services; 1790

(IV) Casing, tubulars, and float and centralizing 1791  
equipment; 1792

(V) Trailers to which production equipment is attached; 1793

(VI) Well completion services, including cementing of 1794  
casing, and tangible personal property directly used in 1795  
providing such services; 1796

(VII) Wireline evaluation, mud logging, and perforation 1797  
services, and tangible personal property directly used in 1798  
providing such services; 1799

(VIII) Reservoir stimulation, hydraulic fracturing, and 1800

acidizing services, and tangible personal property directly used	1801
in providing such services, including all material pumped	1802
downhole;	1803
(IX) Pressure pumping equipment;	1804
(X) Artificial lift systems equipment;	1805
(XI) Wellhead equipment and well site equipment used to	1806
separate, stabilize, and control hydrocarbon phases and produced	1807
water;	1808
(XII) Tangible personal property directly used to control	1809
production equipment.	1810
(ii) For the purposes of division (B) (42) (q) of this	1811
section, the "thing transferred" does not include any of the	1812
following:	1813
(I) Tangible personal property used primarily in the	1814
exploration and production of any mineral resource regulated	1815
under Chapter 1509. of the Revised Code other than oil or gas;	1816
(II) Tangible personal property used primarily in storing,	1817
holding, or delivering solutions or chemicals used in well	1818
stimulation as defined in section 1509.01 of the Revised Code;	1819
(III) Tangible personal property used primarily in	1820
preparing, installing, or reclaiming foundations for drilling or	1821
pumping equipment or well stimulation material tanks;	1822
(IV) Tangible personal property used primarily in	1823
transporting, delivering, or removing equipment to or from the	1824
well site or storing such equipment before its use at the well	1825
site;	1826
(V) Tangible personal property used primarily in gathering	1827

operations occurring off the well site, including gathering	1828
pipelines transporting hydrocarbon gas or liquids away from a	1829
crude oil or natural gas production facility;	1830
(VI) Tangible personal property that is to be incorporated	1831
into a structure or improvement to real property;	1832
(VII) Well site fencing, lighting, or security systems;	1833
(VIII) Communication devices or services;	1834
(IX) Office supplies;	1835
(X) Trailers used as offices or lodging;	1836
(XI) Motor vehicles of any kind;	1837
(XII) Tangible personal property used primarily for the	1838
storage of drilling byproducts and fuel not used for production;	1839
(XIII) Tangible personal property used primarily as a	1840
safety device;	1841
(XIV) Data collection or monitoring devices;	1842
(XV) Access ladders, stairs, or platforms attached to	1843
storage tanks.	1844
The enumeration of tangible personal property in division	1845
(B) (42) (q) (ii) of this section is not intended to be exhaustive,	1846
and any tangible personal property not so enumerated shall not	1847
necessarily be construed to be a "thing transferred" for the	1848
purposes of division (B) (42) (q) of this section.	1849
The commissioner shall adopt and promulgate rules under	1850
sections 119.01 to 119.13 of the Revised Code that the	1851
commissioner deems necessary to administer division (B) (42) (q)	1852
of this section.	1853



As used in division (B) (42) of this section, "thing" 1854  
includes all transactions included in divisions (B) (3) (a), (b), 1855  
and (e) of section 5739.01 of the Revised Code. 1856

(43) Sales conducted through a coin operated device that 1857  
activates vacuum equipment or equipment that dispenses water, 1858  
whether or not in combination with soap or other cleaning agents 1859  
or wax, to the consumer for the consumer's use on the premises 1860  
in washing, cleaning, or waxing a motor vehicle, provided no 1861  
other personal property or personal service is provided as part 1862  
of the transaction. 1863

(44) Sales of replacement and modification parts for 1864  
engines, airframes, instruments, and interiors in, and paint 1865  
for, aircraft used primarily in a fractional aircraft ownership 1866  
program, and sales of services for the repair, modification, and 1867  
maintenance of such aircraft, and machinery, equipment, and 1868  
supplies primarily used to provide those services. 1869

(45) Sales of telecommunications service that is used 1870  
directly and primarily to perform the functions of a call 1871  
center. As used in this division, "call center" means any 1872  
physical location where telephone calls are placed or received 1873  
in high volume for the purpose of making sales, marketing, 1874  
customer service, technical support, or other specialized 1875  
business activity, and that employs at least fifty individuals 1876  
that engage in call center activities on a full-time basis, or 1877  
sufficient individuals to fill fifty full-time equivalent 1878  
positions. 1879

(46) Sales by a telecommunications service vendor of 900 1880  
service to a subscriber. This division does not apply to 1881  
information services. 1882

(47) Sales of value-added non-voice data service. This	1883
division does not apply to any similar service that is not	1884
otherwise a telecommunications service.	1885
(48) Sales of feminine hygiene products.	1886
(49) Sales of materials, parts, equipment, or engines used	1887
in the repair or maintenance of aircraft or avionics systems of	1888
such aircraft, and sales of repair, remodeling, replacement, or	1889
maintenance services in this state performed on aircraft or on	1890
an aircraft's avionics, engine, or component materials or parts.	1891
As used in division (B) (49) of this section, "aircraft" means	1892
aircraft of more than six thousand pounds maximum certified	1893
takeoff weight or used exclusively in general aviation.	1894
(50) Sales of full flight simulators that are used for	1895
pilot or flight-crew training, sales of repair or replacement	1896
parts or components, and sales of repair or maintenance services	1897
for such full flight simulators. "Full flight simulator" means a	1898
replica of a specific type, or make, model, and series of	1899
aircraft cockpit. It includes the assemblage of equipment and	1900
computer programs necessary to represent aircraft operations in	1901
ground and flight conditions, a visual system providing an out-	1902
of-the-cockpit view, and a system that provides cues at least	1903
equivalent to those of a three-degree-of-freedom motion system,	1904
and has the full range of capabilities of the systems installed	1905
in the device as described in appendices A and B of part 60 of	1906
chapter 1 of title 14 of the Code of Federal Regulations.	1907
(51) Any transfer or lease of tangible personal property	1908
between the state and JobsOhio in accordance with section	1909
4313.02 of the Revised Code.	1910
(52) (a) Sales to a qualifying corporation.	1911

(b) As used in division (B) (52) of this section:	1912
(i) "Qualifying corporation" means a nonprofit corporation	1913
organized in this state that leases from an eligible county	1914
land, buildings, structures, fixtures, and improvements to the	1915
land that are part of or used in a public recreational facility	1916
used by a major league professional athletic team or a class A	1917
to class AAA minor league affiliate of a major league	1918
professional athletic team for a significant portion of the	1919
team's home schedule, provided the following apply:	1920
(I) The facility is leased from the eligible county	1921
pursuant to a lease that requires substantially all of the	1922
revenue from the operation of the business or activity conducted	1923
by the nonprofit corporation at the facility in excess of	1924
operating costs, capital expenditures, and reserves to be paid	1925
to the eligible county at least once per calendar year.	1926
(II) Upon dissolution and liquidation of the nonprofit	1927
corporation, all of its net assets are distributable to the	1928
board of commissioners of the eligible county from which the	1929
corporation leases the facility.	1930
(ii) "Eligible county" has the same meaning as in section	1931
307.695 of the Revised Code.	1932
(53) Sales to or by a cable service provider, video	1933
service provider, or radio or television broadcast station	1934
regulated by the federal government of cable service or	1935
programming, video service or programming, audio service or	1936
programming, or electronically transferred digital audiovisual	1937
or audio work. As used in division (B) (53) of this section,	1938
"cable service" and "cable service provider" have the same	1939
meanings as in section 1332.01 of the Revised Code, and "video	1940

service," "video service provider," and "video programming" have	1941
the same meanings as in section 1332.21 of the Revised Code.	1942
(54) Sales of a digital audio work electronically	1943
transferred for delivery through use of a machine, such as a	1944
juke box, that does all of the following:	1945
(a) Accepts direct payments to operate;	1946
(b) Automatically plays a selected digital audio work for	1947
a single play upon receipt of a payment described in division	1948
(B) (54) (a) of this section;	1949
(c) Operates exclusively for the purpose of playing	1950
digital audio works in a commercial establishment.	1951
(55) (a) Sales of the following occurring on the first	1952
Friday of August and the following Saturday and Sunday of any	1953
year, except in 2024 or any subsequent year in which a sales tax	1954
holiday is held pursuant to section 5739.41 of the Revised Code:	1955
(i) An item of clothing, the price of which is seventy-	1956
five dollars or less;	1957
(ii) An item of school supplies, the price of which is	1958
twenty dollars or less;	1959
(iii) An item of school instructional material, the price	1960
of which is twenty dollars or less.	1961
(b) As used in division (B) (55) of this section:	1962
(i) "Clothing" means all human wearing apparel suitable	1963
for general use. "Clothing" includes, but is not limited to,	1964
aprons, household and shop; athletic supporters; baby receiving	1965
blankets; bathing suits and caps; beach capes and coats; belts	1966
and suspenders; boots; coats and jackets; costumes; diapers,	1967

children and adult, including disposable diapers; earmuffs; 1968  
footlets; formal wear; garters and garter belts; girdles; gloves 1969  
and mittens for general use; hats and caps; hosiery; insoles for 1970  
shoes; lab coats; neckties; overshoes; pantyhose; rainwear; 1971  
rubber pants; sandals; scarves; shoes and shoe laces; slippers; 1972  
sneakers; socks and stockings; steel-toed shoes; underwear; 1973  
uniforms, athletic and nonathletic; and wedding apparel. 1974  
"Clothing" does not include items purchased for use in a trade 1975  
or business; clothing accessories or equipment; protective 1976  
equipment; sports or recreational equipment; belt buckles sold 1977  
separately; costume masks sold separately; patches and emblems 1978  
sold separately; sewing equipment and supplies including, but 1979  
not limited to, knitting needles, patterns, pins, scissors, 1980  
sewing machines, sewing needles, tape measures, and thimbles; 1981  
and sewing materials that become part of "clothing" including, 1982  
but not limited to, buttons, fabric, lace, thread, yarn, and 1983  
zippers. 1984

(ii) "School supplies" means items commonly used by a 1985  
student in a course of study. "School supplies" includes only 1986  
the following items: binders; book bags; calculators; cellophane 1987  
tape; blackboard chalk; compasses; composition books; crayons; 1988  
erasers; folders, expandable, pocket, plastic, and manila; glue, 1989  
paste, and paste sticks; highlighters; index cards; index card 1990  
boxes; legal pads; lunch boxes; markers; notebooks; paper, 1991  
loose-leaf ruled notebook paper, copy paper, graph paper, 1992  
tracing paper, manila paper, colored paper, poster board, and 1993  
construction paper; pencil boxes and other school supply boxes; 1994  
pencil sharpeners; pencils; pens; protractors; rulers; scissors; 1995  
and writing tablets. "School supplies" does not include any item 1996  
purchased for use in a trade or business. 1997

(iii) "School instructional material" means written 1998

material commonly used by a student in a course of study as a 1999  
reference and to learn the subject being taught. "School 2000  
instructional material" includes only the following items: 2001  
reference books, reference maps and globes, textbooks, and 2002  
workbooks. "School instructional material" does not include any 2003  
material purchased for use in a trade or business. 2004

(56) (a) Sales of adult diapers or incontinence underpads 2005  
sold pursuant to a prescription, for the benefit of a medicaid 2006  
recipient with a diagnosis of incontinence, and by a medicaid 2007  
provider that maintains a valid provider agreement under section 2008  
5164.30 of the Revised Code with the department of medicaid, 2009  
provided that the medicaid program covers diapers or 2010  
incontinence underpads as an incontinence garment. 2011

(b) As used in division (B) (56) (a) of this section, 2012  
"incontinence underpad" means an absorbent product, not worn on 2013  
the body, designed to protect furniture or other tangible 2014  
personal property from soiling or damage due to human 2015  
incontinence. 2016

(57) Sales of investment metal bullion and investment 2017  
coins. "Investment metal bullion" means any bullion described in 2018  
section 408(m) (3) (B) of the Internal Revenue Code, regardless of 2019  
whether that bullion is in the physical possession of a trustee. 2020  
"Investment coin" means any coin composed primarily of gold, 2021  
silver, platinum, or palladium. 2022

(58) Sales of tangible personal property used primarily 2023  
for any of the following purposes by a megaproject operator at 2024  
the site of a megaproject that satisfies the criteria described 2025  
in division (A) (11) (a) (ii) of section 122.17 of the Revised 2026  
Code, provided that the sale occurs during the period that the 2027  
megaproject operator has an agreement for such megaproject with 2028

the tax credit authority under division (D) of section 122.17 of 2029  
the Revised Code that remains in effect and has not expired or 2030  
been terminated: 2031

(a) To store, transmit, convey, distribute, recycle, 2032  
circulate, or clean water, steam, or other gases used in or 2033  
produced as a result of manufacturing activity, including items 2034  
that support or aid in the operation of such property; 2035

(b) To clean or prepare inventory, at any stage of storage 2036  
or production, or equipment used in a manufacturing activity, 2037  
including chemicals, solvents, catalysts, soaps, and other items 2038  
that support or aid in the operation of property; 2039

(c) To regulate, treat, filter, condition, improve, clean, 2040  
maintain, or monitor environmental conditions within areas where 2041  
manufacturing activities take place; 2042

(d) To handle, transport, or convey inventory during 2043  
production or manufacturing. 2044

(59) Documentary services charges imposed pursuant to 2045  
section 4517.261 or 4781.24 of the Revised Code. 2046

(60) Sales of children's diapers. 2047

(61) Sales of therapeutic or preventative creams and wipes 2048  
marketed primarily for use on the skin of children. 2049

(62) Sales of a child restraint device or booster seat 2050  
that meets the national highway traffic safety administration 2051  
standard for child restraint systems under 49 C.F.R. 571.213. 2052

(63) Sales of cribs intended to provide sleeping 2053  
accommodations for children that comply with the United States 2054  
consumer product safety commission's safety standard for full- 2055  
size baby cribs under 16 C.F.R. 1219 or the commission's safety 2056

standard for non-full-size baby cribs under 16 C.F.R. 1220.	2057
(64) Sales of strollers meant for transporting children	2058
from infancy to about thirty-six months of age that meet the	2059
United States consumer product safety commission safety standard	2060
for carriages and strollers under 16 C.F.R. 1227.2.	2061
(65) The fee imposed by section 3743.22 of the Revised	2062
Code, if it is separately stated on the invoice, bill of sale,	2063
or similar document given by the vendor to the consumer for a	2064
retail sale made in this state.	2065
(66) Sales of eligible tangible personal property	2066
occurring during the period of a sales tax holiday held pursuant	2067
to section 5739.41 of the Revised Code.	2068
<u>(67) Sales of firearm safety devices.</u>	2069
(C) For the purpose of the proper administration of this	2070
chapter, and to prevent the evasion of the tax, it is presumed	2071
that all sales made in this state are subject to the tax until	2072
the contrary is established.	2073
(D) The tax collected by the vendor from the consumer	2074
under this chapter is not part of the price, but is a tax	2075
collection for the benefit of the state, and of counties levying	2076
an additional sales tax pursuant to section 5739.021 or 5739.026	2077
of the Revised Code and of transit authorities levying an	2078
additional sales tax pursuant to section 5739.023 of the Revised	2079
Code. Except for the discount authorized under section 5739.12	2080
of the Revised Code and the effects of any rounding pursuant to	2081
section 5703.055 of the Revised Code, no person other than the	2082
state or such a county or transit authority shall derive any	2083
benefit from the collection or payment of the tax levied by this	2084
section or section 5739.021, 5739.023, or 5739.026 of the	2085



Revised Code. 2086

**Sec. 5739.03.** (A) Except as provided in section 5739.05 or 2087  
section 5739.051 of the Revised Code, the tax imposed by or 2088  
pursuant to section 5739.02, 5739.021, 5739.023, or 5739.026 of 2089  
the Revised Code shall be paid by the consumer to the vendor, 2090  
and each vendor shall collect from the consumer, as a trustee 2091  
for the state of Ohio, the full and exact amount of the tax 2092  
payable on each taxable sale, in the manner and at the times 2093  
provided as follows: 2094

(1) If the price is, at or prior to the provision of the 2095  
service or the delivery of possession of the thing sold to the 2096  
consumer, paid in currency passed from hand to hand by the 2097  
consumer or the consumer's agent to the vendor or the vendor's 2098  
agent, the vendor or the vendor's agent shall collect the tax 2099  
with and at the same time as the price; 2100

(2) If the price is otherwise paid or to be paid, the 2101  
vendor or the vendor's agent shall, at or prior to the provision 2102  
of the service or the delivery of possession of the thing sold 2103  
to the consumer, charge the tax imposed by or pursuant to 2104  
section 5739.02, 5739.021, 5739.023, or 5739.026 of the Revised 2105  
Code to the account of the consumer, which amount shall be 2106  
collected by the vendor from the consumer in addition to the 2107  
price. Such sale shall be reported on and the amount of the tax 2108  
applicable thereto shall be remitted with the return for the 2109  
period in which the sale is made, and the amount of the tax 2110  
shall become a legal charge in favor of the vendor and against 2111  
the consumer. 2112

(B) (1) (a) If any sale is claimed to be exempt under 2113  
division (E) of section 5739.01 of the Revised Code or under 2114  
section 5739.02 of the Revised Code, with the exception of 2115

divisions (B) (1) to (11), (28), (48), (55), (59), ~~or~~ (66), or 2116  
(67) of section 5739.02 of the Revised Code, the consumer must 2117  
provide to the vendor, and the vendor must obtain from the 2118  
consumer, a certificate specifying the reason that the sale is 2119  
not legally subject to the tax. The certificate shall be in such 2120  
form, and shall be provided either in a hard copy form or 2121  
electronic form, as the tax commissioner prescribes. 2122

(b) A vendor that obtains a fully completed exemption 2123  
certificate from a consumer is relieved of liability for 2124  
collecting and remitting tax on any sale covered by that 2125  
certificate. If it is determined the exemption was improperly 2126  
claimed, the consumer shall be liable for any tax due on that 2127  
sale under section 5739.02, 5739.021, 5739.023, or 5739.026 or 2128  
Chapter 5741. of the Revised Code. Relief under this division 2129  
from liability does not apply to any of the following: 2130

(i) A vendor that fraudulently fails to collect tax; 2131

(ii) A vendor that solicits consumers to participate in 2132  
the unlawful claim of an exemption; 2133

(iii) A vendor that accepts an exemption certificate from 2134  
a consumer that claims an exemption based on who purchases or 2135  
who sells property or a service, when the subject of the 2136  
transaction sought to be covered by the exemption certificate is 2137  
actually received by the consumer at a location operated by the 2138  
vendor in this state, and this state has posted to its web site 2139  
an exemption certificate form that clearly and affirmatively 2140  
indicates that the claimed exemption is not available in this 2141  
state; 2142

(iv) A vendor that accepts an exemption certificate from a 2143  
consumer who claims a multiple points of use exemption under 2144

division (D) of section 5739.033 of the Revised Code, if the 2145  
item purchased is tangible personal property, other than 2146  
prewritten computer software. 2147

(2) The vendor shall maintain records, including exemption 2148  
certificates, of all sales on which a consumer has claimed an 2149  
exemption, and provide them to the tax commissioner on request. 2150

(3) The tax commissioner may establish an identification 2151  
system whereby the commissioner issues an identification number 2152  
to a consumer that is exempt from payment of the tax. The 2153  
consumer must present the number to the vendor, if any sale is 2154  
claimed to be exempt as provided in this section. 2155

(4) If no certificate is provided or obtained within 2156  
ninety days after the date on which such sale is consummated, it 2157  
shall be presumed that the tax applies. Failure to have so 2158  
provided or obtained a certificate shall not preclude a vendor, 2159  
within one hundred twenty days after the tax commissioner gives 2160  
written notice of intent to levy an assessment, from either 2161  
establishing that the sale is not subject to the tax, or 2162  
obtaining, in good faith, a fully completed exemption 2163  
certificate. 2164

(5) Certificates need not be obtained nor provided where 2165  
the identity of the consumer is such that the transaction is 2166  
never subject to the tax imposed or where the item of tangible 2167  
personal property sold or the service provided is never subject 2168  
to the tax imposed, regardless of use, or when the sale is in 2169  
interstate commerce. 2170

(6) If a transaction is claimed to be exempt under 2171  
division (B)(13) of section 5739.02 of the Revised Code, the 2172  
contractor shall obtain certification of the claimed exemption 2173

from the contractee. This certification shall be in addition to 2174  
an exemption certificate provided by the contractor to the 2175  
vendor. A contractee that provides a certification under this 2176  
division shall be deemed to be the consumer of all items 2177  
purchased by the contractor under the claim of exemption, if it 2178  
is subsequently determined that the exemption is not properly 2179  
claimed. The certification shall be in such form as the tax 2180  
commissioner prescribes. 2181

(7) If a transaction is claimed to be exempt under 2182  
division (B) (13) of section 5739.02 of the Revised Code, the 2183  
person that leases a sports facility, as defined in section 2184  
307.696 of the Revised Code, wholly owned by a county may 2185  
provide and sign, on behalf of the county, an exemption 2186  
certificate required under this section for that exemption. 2187

(C) As used in this division, "contractee" means a person 2188  
who seeks to enter or enters into a contract or agreement with a 2189  
contractor or vendor for the construction of real property or 2190  
for the sale and installation onto real property of tangible 2191  
personal property. 2192

Any contractor or vendor may request from any contractee a 2193  
certification of what portion of the property to be transferred 2194  
under such contract or agreement is to be incorporated into the 2195  
realty and what portion will retain its status as tangible 2196  
personal property after installation is completed. The 2197  
contractor or vendor shall request the certification by 2198  
certified mail delivered to the contractee, return receipt 2199  
requested. Upon receipt of such request and prior to entering 2200  
into the contract or agreement, the contractee shall provide to 2201  
the contractor or vendor a certification sufficiently detailed 2202  
to enable the contractor or vendor to ascertain the resulting 2203

classification of all materials purchased or fabricated by the contractor or vendor and transferred to the contractee. This requirement applies to a contractee regardless of whether the contractee holds a direct payment permit under section 5739.031 of the Revised Code or provides to the contractor or vendor an exemption certificate as provided under this section.

For the purposes of the taxes levied by this chapter and Chapter 5741. of the Revised Code, the contractor or vendor may in good faith rely on the contractee's certification. Notwithstanding division (B) of section 5739.01 of the Revised Code, if the tax commissioner determines that certain property certified by the contractee as tangible personal property pursuant to this division is, in fact, real property, the contractee shall be considered to be the consumer of all materials so incorporated into that real property and shall be liable for the applicable tax, and the contractor or vendor shall be excused from any liability on those materials.

If a contractee fails to provide such certification upon the request of the contractor or vendor, the contractor or vendor shall comply with the provisions of this chapter and Chapter 5741. of the Revised Code without the certification. If the tax commissioner determines that such compliance has been performed in good faith and that certain property treated as tangible personal property by the contractor or vendor is, in fact, real property, the contractee shall be considered to be the consumer of all materials so incorporated into that real property and shall be liable for the applicable tax, and the construction contractor or vendor shall be excused from any liability on those materials.

This division does not apply to any contract or agreement

where the tax commissioner determines as a fact that a 2234  
certification under this division was made solely on the 2235  
decision or advice of the contractor or vendor. 2236

(D) Notwithstanding division (B) of section 5739.01 of the 2237  
Revised Code, whenever the total rate of tax imposed under this 2238  
chapter is increased after the date after a construction 2239  
contract is entered into, the contractee shall reimburse the 2240  
construction contractor for any additional tax paid on tangible 2241  
property consumed or services received pursuant to the contract. 2242

(E) A vendor who files a petition for reassessment 2243  
contesting the assessment of tax on sales for which the vendor 2244  
obtained no valid exemption certificates and for which the 2245  
vendor failed to establish that the sales were properly not 2246  
subject to the tax during the one-hundred-twenty-day period 2247  
allowed under division (B) of this section, may present to the 2248  
tax commissioner additional evidence to prove that the sales 2249  
were properly subject to a claim of exception or exemption. The 2250  
vendor shall file such evidence within ninety days of the 2251  
receipt by the vendor of the notice of assessment, except that, 2252  
upon application and for reasonable cause, the period for 2253  
submitting such evidence shall be extended thirty days. 2254

The commissioner shall consider such additional evidence 2255  
in reaching the final determination on the assessment and 2256  
petition for reassessment. 2257

(F) Whenever a vendor refunds the price, minus any 2258  
separately stated delivery charge, of an item of tangible 2259  
personal property on which the tax imposed under this chapter 2260  
has been paid, the vendor shall also refund the amount of tax 2261  
paid, minus the amount of tax attributable to the delivery 2262  
charge. 2263

**Sec. 5739.17.** (A) No person shall engage in making retail sales subject to a tax imposed by or pursuant to section 5739.02, 5739.021, 5739.023, or 5739.026 of the Revised Code as a business without having a license therefor, except as otherwise provided in divisions (A) (1), (2), and (3) of this section.

(1) In the dissolution of a partnership by death, the surviving partner may operate under the license of the partnership for a period of sixty days.

(2) The heirs or legal representatives of deceased persons, and receivers and trustees in bankruptcy, appointed by any competent authority, may operate under the license of the person so succeeded in possession.

(3) Two or more persons who are not partners may operate a single place of business under one license. In such case neither the retirement of any such person from business at that place of business, nor the entrance of any person, under an existing arrangement, shall affect the license or require the issuance of a new license, unless the person retiring from the business is the individual named on the vendor's license.

Except as otherwise provided in this section, each applicant for a license shall make out and deliver to the county auditor of each county in which the applicant desires to engage in business, upon a blank to be furnished by such auditor for that purpose, a statement showing the name of the applicant, each place of business in the county where the applicant will make retail sales, the nature of the business, and any other information the tax commissioner reasonably prescribes in the form of a statement prescribed by the commissioner.

At the time of making the application, the applicant shall 2293  
pay into the county treasury a license fee in the sum of fifty 2294  
dollars for each fixed place of business in the county that will 2295  
be the situs of retail sales. Upon receipt of the application 2296  
and exhibition of the county treasurer's receipt, showing the 2297  
payment of the license fee, the county auditor shall issue to 2298  
the applicant a license for each fixed place of business 2299  
designated in the application, authorizing the applicant to 2300  
engage in business at that location. The county auditor shall 2301  
transmit twenty-five dollars of each license fee to the 2302  
treasurer of state for deposit into the state treasury to the 2303  
credit of the organized crime commission fund for the purposes 2304  
specified in section 177.011 of the Revised Code. The remaining 2305  
twenty-five dollars of each license fee shall be credited to the 2306  
general fund of the county. 2307

(B) If a vendor's identity changes, the vendor shall apply 2308  
for a new license. If a vendor wishes to move an existing fixed 2309  
place of business to a new location within the same county, the 2310  
vendor shall obtain a new vendor's license or submit a request 2311  
to the commissioner to transfer the existing vendor's license to 2312  
the new location. When the new location has been verified as 2313  
being within the same county, the commissioner shall authorize 2314  
the transfer and notify the county auditor of the change of 2315  
location. If a vendor wishes to move an existing fixed place of 2316  
business to another county, the vendor's license shall not 2317  
transfer and the vendor shall obtain a new vendor's license from 2318  
the county in which the business is to be located. The form of 2319  
the license shall be prescribed by the commissioner. The fees 2320  
collected shall be credited as specified in division (A) (3) of 2321  
this section. If a vendor fails to notify the commissioner of a 2322  
change of location of its fixed place of business or that its 2323



business has closed, the commissioner may cancel the vendor's 2324  
license if ordinary mail sent to the location shown on the 2325  
license is returned because of an undeliverable address. 2326

(C) The commissioner may establish or participate in a 2327  
registration system whereby any vendor may obtain a vendor's 2328  
license by submitting to the commissioner a vendor's license 2329  
application and a license fee of fifty dollars for each fixed 2330  
place of business at which the vendor intends to make retail 2331  
sales. Under this registration system, the commissioner shall 2332  
issue a vendor's license to the applicant on behalf of the 2333  
county auditor of the county in which the applicant desires to 2334  
engage in business, and shall forward a copy of the application 2335  
and license fee to that county. Twenty-five dollars of each 2336  
license fee received by the commissioner for the issuance of 2337  
vendor's licenses shall be deposited into the vendor's license 2338  
application fund, which is hereby created in the state treasury. 2339  
The remaining twenty-five dollars of each license fee shall be 2340  
deposited into the organized crime commission fund for the 2341  
purposes specified in section 177.011 of the Revised Code. The 2342  
commissioner shall certify to the director of budget and 2343  
management within ten business days after the close of a month 2344  
the license fees to be transmitted to each county from the 2345  
vendor's license application fund for vendor's license 2346  
applications received by the commissioner during that month. 2347  
License fees transmitted to a county for which payment was not 2348  
received by the commissioner may be netted against a future 2349  
distribution to that county, including distributions made 2350  
pursuant to section 5739.21 of the Revised Code. 2351

A vendor that makes retail sales subject to tax under 2352  
Chapter 5739. of the Revised Code pursuant to a permit issued by 2353  
the division of liquor control shall obtain a vendor's license 2354

in the identical name and for the identical address as shown on 2355  
the permit. 2356

Except as otherwise provided in this section, if a vendor 2357  
has no fixed place of business and sells from a vehicle, each 2358  
vehicle intended to be used within a county constitutes a place 2359  
of business for the purpose of this section. 2360

(D) As used in this section, "transient vendor" means any 2361  
person who makes sales of tangible personal property from 2362  
vending machines located on land owned by others, who leases 2363  
titled motor vehicles, titled watercraft, or titled outboard 2364  
motors, who effectuates leases that are taxed according to 2365  
division (A) (2) of section 5739.02 of the Revised Code, or who, 2366  
in the usual course of the person's business, transports 2367  
inventory, stock of goods, or similar tangible personal property 2368  
to a temporary place of business or temporary exhibition, show, 2369  
fair, flea market, or similar event in a county in which the 2370  
person has no fixed place of business, for the purpose of making 2371  
retail sales of such property. A "temporary place of business" 2372  
means any public or quasi-public place including, but not 2373  
limited to, a hotel, rooming house, storeroom, building, part of 2374  
a building, tent, vacant lot, railroad car, or motor vehicle 2375  
that is temporarily occupied for the purpose of making retail 2376  
sales of goods to the public. A place of business is not 2377  
temporary if the same person conducted business at the place 2378  
continuously for more than six months or occupied the premises 2379  
as the person's permanent residence for more than six months, or 2380  
if the person intends it to be a fixed place of business. 2381

Any transient vendor, in lieu of obtaining a vendor's 2382  
license under division (A) of this section for counties in which 2383  
the transient vendor has no fixed place of business, may apply 2384

to the tax commissioner, on a form prescribed by the 2385  
commissioner, for a transient vendor's license. The transient 2386  
vendor's license authorizes the transient vendor to make retail 2387  
sales in any county in which the transient vendor does not 2388  
maintain a fixed place of business. Any holder of a transient 2389  
vendor's license shall not be required to obtain a separate 2390  
vendor's license from the county auditor in that county. Upon 2391  
the commissioner's determination that an applicant is a 2392  
transient vendor, the applicant shall pay a license fee in the 2393  
amount of fifty dollars, at which time the tax commissioner 2394  
shall issue the license. Twenty-five dollars of that license fee 2395  
shall be deposited into the organized crime commission fund for 2396  
the purposes specified in section 177.011 of the Revised Code. 2397  
The tax commissioner may require a vendor to be licensed as a 2398  
transient vendor if, in the opinion of the commissioner, such 2399  
licensing is necessary for the efficient administration of the 2400  
tax. 2401

Any holder of a valid transient vendor's license may make 2402  
retail sales at a temporary place of business or temporary 2403  
exhibition, show, fair, flea market, or similar event, held 2404  
anywhere in the state without complying with any provision of 2405  
section 311.37 of the Revised Code. Any holder of a valid 2406  
vendor's license may make retail sales as a transient vendor at 2407  
a temporary place of business or temporary exhibition, show, 2408  
fair, flea market, or similar event held in any county in which 2409  
the vendor maintains a fixed place of business for which the 2410  
vendor holds a vendor's license without obtaining a transient 2411  
vendor's license. 2412

(E) Any vendor who is issued a license pursuant to this 2413  
section shall display the license or a copy of it prominently, 2414  
in plain view, at every place of business of the vendor. 2415

(F) No owner, organizer, or promoter who operates a fair, 2416  
flea market, show, exhibition, convention, or similar event at 2417  
which transient vendors are present shall fail to keep a 2418  
comprehensive record of all such vendors, listing the vendor's 2419  
name, permanent address, vendor's license number, and the type 2420  
of goods sold. Such records shall be kept for four years and 2421  
shall be open to inspection by the commissioner. 2422

(G) The commissioner may issue additional types of 2423  
licenses if required to efficiently administer the tax imposed 2424  
by this chapter. 2425

(H) A vendor shall post in a conspicuous manner at all 2426  
points of sale on the vendor's premises where firearms are sold 2427  
a notice that says the following: "The State of Ohio has 2428  
exempted the sale of firearm safety devices from the sales and 2429  
use tax imposed by this state and local governments." The 2430  
vendor, upon the retail sale or transfer of a firearm, shall 2431  
furnish such a written notice to the consumer. 2432

**Section 2.** That existing sections 5739.01, 5739.02, 2433  
5739.03, and 5739.17 of the Revised Code are hereby repealed. 2434

**Section 3.** The amendment by this act of sections 5739.01, 2435  
5739.02, 5739.03, and 5739.17 of the Revised Code applies on and 2436  
after the first day of the first month beginning after the 2437  
effective date of this section. 2438

**Section 4.** Section 5739.01 of the Revised Code is 2439  
presented in this act as a composite of the section as amended 2440  
by both H.B. 315 and S.B. 196 of the 135th General Assembly. The 2441  
General Assembly, applying the principle stated in division (B) 2442  
of section 1.52 of the Revised Code that amendments are to be 2443  
harmonized if reasonably capable of simultaneous operation, 2444

finds that the composite is the resulting version of the section	2445
in effect prior to the effective date of the section as	2446
presented in this act.	2447